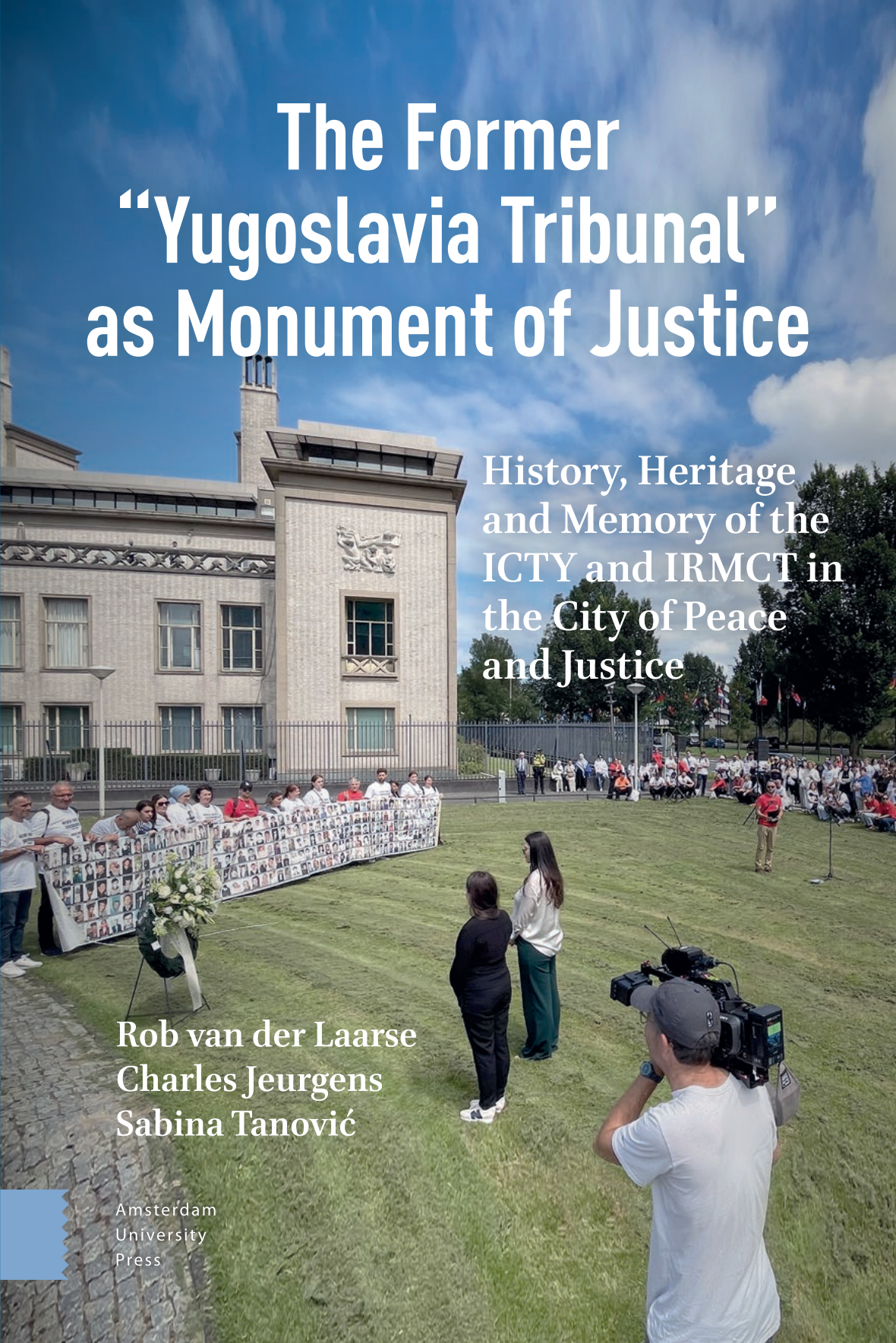
The Former "Yugoslavia Tribunal" as Monument of Justice

History, Heritage and Memory of the ICTY and IRMCT in the City of Peace and Justice



Rob van der Laarse
Charles Jeurgens
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Amsterdam University Press

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Introduction: History, Heritage, and Memory

"This is your memory. It's our memory. A reminder of the terrible genocide that must not disappear from history. [...] *And we'll share it with you—every July 11.* [...] *The horrible genocide is the fault of only one party: the Bosnian Serb army. And fortunately, the main culprits have now been tried by the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. But regardless of this, the international community failed to protect the people of Srebrenica. As part of this community, the Dutch government shares responsibility for the situation in which this could happen. We offer our deepest apologies for this. The memory of July 1995 connects Bosnia and the Netherlands forever.* [...] *And we are also making our voices heard in The Hague—the international City of Peace and Justice—where work is being done on a national monument to the genocide of Srebrenica. Relatives and veterans of Dutchbat are working on it together—with one voice."*[1]

Subject of the Assignment and Main Research Question

The Dutch government is seeking a new function for the building at Churchillplein 1 in The Hague, which housed the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals (IRMCT) for more than thirty years (Figure 0.1). In 2009, the building was designated a protected built national monument (*rijksmonument*), and ten years later the Central Government Real Estate Agency (*Rijksvastgoedbedrijf*, RVB) purchased the building with the aim of housing another international organization and investigating whether this could be done together with the IRMCT.[2] However, redeveloping the former Yugoslavia Tribunal premises for a possible new (co-)user raises issues. The 2009 explanatory description in the National Monument Register, from the time when Churchillplein 1 was designated a protected monument, references the aesthetic values of its architectural design and

Laarse, Rob van der, Charles Jeurgens, Sabina Tanović. *The Former "Yugoslavia Tribunal" as Monument of Justice: History, Heritage and Memory of the ICTY and IRMCT in the City of Peace and Justice*. Amsterdam: Amsterdam University Press, 2025.
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its national significance as an essential example of the hundred most important developments in cultural and social history from the post-war reconstruction period in the Netherlands. It also mentions extra floors added in 1983, and the three courtrooms of the ICTY from the 1990s.[3] With a view to redeveloping the current building, RVB therefore commissioned Crimson Historians & Urbanists to carry out a combined architectural and culture-historical assessment of the building. Crimson's assessment report (hereinafter referred to as "Crimson Report") combines an extensive history of the building's architecture, built history, use, and spatial environment from the post-war reconstruction period through to its most recent phase as the ICTY Tribunal, along with a valuation of monumental values.[4]

The Crimson Report addresses the architectural quality of the building, its international style and design, its value as material construction, and its unique spatial ensemble in respect of its planned historical urban context. It also considers the rich execution of façades and interiors, including the art works and the pond in the forecourt. Attention is further drawn to the history of its use and its transformation from a banking headquarters into an international criminal court, as to which Crimson also mapped out the building's history of use, from its completion in 1956 as headquarters of the insurance bank EN-NEN to its function as a UN criminal tribunal since 1994. Taking into account the high representational values of this striking and impressive wedge-shaped bank palace with its prestigious façade and pond in the forecourt, it assesses the monument as a clever adaptation to an urban modernist grand design, highlighting the top-quality materials as a striking example of the work of architect A.J. van der Steur (1951-1953).

In addition to the aesthetic quality of the design, Churchillplein 1 is also highly valued for the largely intact condition of the building's structure. From an architectural point of view, however, the later additions of the double top floor added in the early 1980s under EN-NEN Bank's legal successor, Aegon Bank, are considered not as robust as the original design, and therefore without architectural value. This is even more true for the internal constructions from the period of the UN tribunal, assessed as "a break with the existing spatial structure and thus a deterioration of the spatial quality." Nevertheless, these later changes "are predominantly reversible in nature and therefore do not affect the high rating."[5] It is important to note, however, that although it notes an impairment of the original "work of art," this existing architectural assessment should *not* be read as a justification for the removal of these later additions, even if this were possible—which it is not, under the current Heritage Act (2016). For, "despite their sparse architectural design and disruptive effects on the original experience of

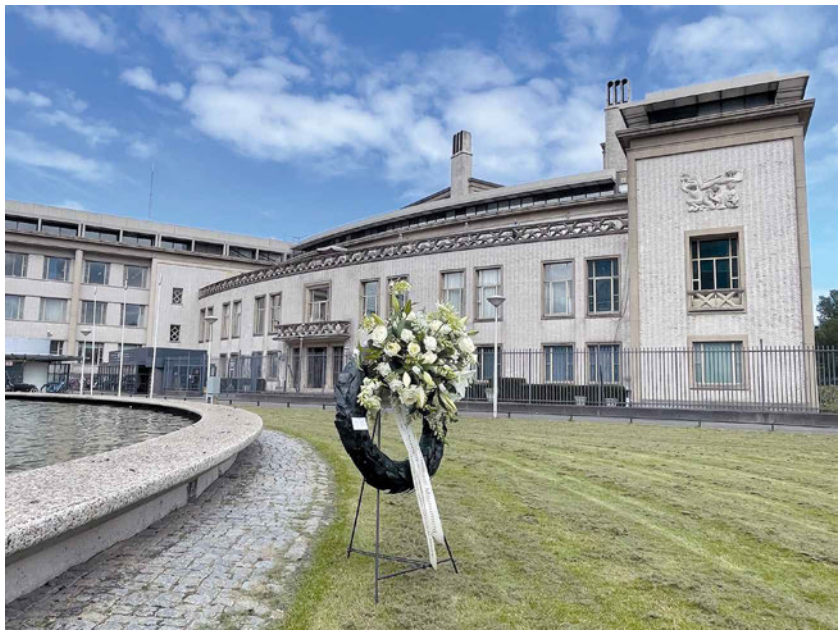

Figure 0.1. Churchillplein 1. Photo Designing Memory.

space," the same "elements such as the various courtrooms, built-in staircase, and the temporary cell blocks" that are considered indifferent or even detrimental to the *architectural value* of the original building, are highly valued by Crimson from a perspective of *cultural history*.[6]

While, on the one hand, "the former EN-NEN building is unmistakably a very special office building from the post-war reconstruction period with exceptional architectural qualities that scores high on all criteria," on the other hand the building is equally highly valued "because of the *special user* that it actually houses today, the International Criminal Tribunal for the former Yugoslavia."[7] In other words, for the "temporary" function of the Tribunal, renovations were carried out that, although of little architectural value, are nevertheless crucial for the heritage and memorial values. The status of the monumental office building with pond is therefore not only due to the architectural importance of the striking urban marking of the high design quality and the rich use of materials (1950s), but also emphatically to the great intangible, cultural-historical significance for the Netherlands and the international community of the later additions/changes after the arrival of the ICTY (1990s).

The RVB, the current owner, endorses the social significance of the ICTY. However, these findings from a national architectural and cultural-historical

perspective have not yet been translated into an intangible value proposition from a broader cultural and political context, and there is still insufficient insight into how this can be embraced and translated into a possible new future for the former Yugoslavia Tribunal building. The question that then arises is: how may the (inter)national cultural-historical and memorial values of the ICTY be safeguarded when the Churchillplein 1 building is repurposed? In order to gain insight into this, and because this issue may take on a political charge, the RVB has decided to submit this assessment of intangible values of the "(former) Yugoslavia Tribunal" to an independent external research committee.

Operationalization, topics, and objective

The University of Amsterdam (UvA), as an external scientific body, has accepted the assignment by means of a proposal to investigate and assess the importance and impact of the International Criminal Tribunal for the former Yugoslavia (ICTY) for the purpose of safeguarding the (inter) national commemorative values of Churchillplein 1. This is done under strict conditions of scientific integrity and academic independence (see Appendix 2). With this in mind, the Research Committee responsible for this research report on behalf of the UvA, under the co-chairmanship of Professors Van der Laarse and Jeurgens (hereinafter referred to as the Committee), covers the disciplines of heritage, memory and material culture studies, archival science, memorial architecture and design, transitional justice, and international criminal law. To investigate the historical importance, legal significance, and heritage and memorial values of the former "Yugoslavia Tribunal," and to find out how these can best be safeguarded, and what consequences this would have for a future redevelopment, the Committee's main authors (Van der Laarse, Jeurgens and Tanović) operationalize for this report, the RVB's request by means of a newly developed research and assignment approach, as will be explained below. The qualitative research methods for collecting and analyzing data include literature and archival research, narrative analysis, site analysis and spatial memory mapping, interviews and surveys, fieldwork work observations, and 3D laser scanning. The research aims have been shared and discussed with other Committee members, RVB advisors and participants from other ministries, the Atelier of the Chief Government Architect (Rijksbouwmeester), the Cultural Heritage Agency of the Netherlands (RCE), the municipality of The Hague, and the current user (IRMCT). The findings of the independently conducted study

have been outlined in this report and discussed with the commissioning party, the RVB. For the purpose of dissemination to all parties involved, including victim communities and the international community, the report is written in English and is publicly available. In accordance with the provisions of scientific collaboration, the intellectual property and author rights are vested in the UvA.

Central to this UvA Report is the research and assessment of Churchillplein 1's new legal and symbolic function after it was transformed, in the words of the Crimson Report (2021), from "a monument to the insurance sector in the Netherlands" to a place inextricably linked to the development and success of international law, and as such "play[ed] a key role in one of the darkest phases of European history."[8] This assessment thus aims to identify the intangible heritage and commemorative values of the site during its use as a UN seat of the ICTY and (since 2010) the IRMCT from 1994 to the present day, and proposes several recommendations for the protection of the main traces of this period of use, which, even if they have no architectural value, are crucial in the context of the legitimacy of the Tribunal. It should be noted that this research does not extend to a co-user in addition to the main user IRMCT, the Association of Defence Counsel (ADC-ICT). Although officially not a Tribunal organ, it was initiated by the judges and lawyers at the ICTY in 2002 to ensure a higher quality of defense, based on Rule 42 of the ICTY Rules of Procedure and Evidence and within the framework of the Mechanism's Directive and Code. It is housed in the elongated west wing of Churchillplein 1 and thus shares the same location.[9]

To answer the main research question considering the research and assessment of this transformation and use as UN Criminal Court, the Committee focuses on three topics, each covering a crucial element of the history, heritage and memory of the ICTY and IRMCT as located in its monumental destination in the City of Peace and Justice from 1993 to the present, which will be explained in more detail below and elaborated in the chapters of the report.

First, with the use of Churchillplein 1 by ICTY and IRMCT, a crucial layer of meaning has been added to the cultural biography of the building, but the dynamic dimension of this use as UN Criminal Court during the past three decades has not yet been sufficiently portrayed. For example, little is known about the austere functionality of the successive renovations from 1994 to the present, intended to lead suspects and witnesses from the side entrance to the courtrooms via separate routes and holding rooms in the former bank vaults, about the accommodation of the hundreds of international judges, prosecutors, lawyers, translators, and guards, and

the reception of journalists, family members, and other visitors. In that sense, the Tribunal's "biotope" was also much larger than just the court of appeal and extended, for example, to the special UN department of the penitentiary in Scheveningen, where Serbian President Milošević died in his cell in 2006, and the Bosnian Serb army chief Ratko Mladić, convicted of genocide, is still imprisoned. This highly charged locale on the North Sea coast thus forms in a sense the end point of the "International Zone" of The Hague, of which the highly urbanized area of Zorgvliet-World Forum has become the core area, which with the arrival of the International ICTY received more and more international attention and with it a different, yet little-exposed urban dynamic.

Secondly, at every important ruling by the International Criminal Tribunal for the former Yugoslavia, the monumental façade of Churchillplein 1 was emphatically in the eye of the international media. The fact that an international criminal tribunal—directly succeeding the Nuremberg and Tokyo tribunals—indicted 161 war criminals here on behalf of the UN, with several political and military suspects found guilty of genocide over the years, has given this building an iconic significance. In addition to this global symbol of international criminal law and transitional justice, the former Yugoslavia Tribunal's increasing association with the Srebrenica genocide also seems to have signposted the diverging international and national approaches to the failing international peace policy in the Balkans and the controversial Dutch peacekeeping mission (July 11-22, 1995). The critical assessment of Dutchbat's role in the NIOD's "Srebrenica report" (2002) was adopted by the Kok II cabinet, which subsequently resigned. In doing so, the Netherlands took its own responsibility, albeit with a long aftermath that left little room for public apologies. The impact of this difficult Dutch handling of the failed peacekeeping mission and unintended involvement in the genocide in Srebrenica on the political attitude towards the UN has not yet been sufficiently assessed; nor has the recent change in the Dutch position under the influence of new geopolitical conflicts that could lead to a significant reappraisal of the Hague Tribunal in national memory.

Thirdly, perhaps because of the silence surrounding "Srebrenica," there seems to be a flagrant lack of interest and knowledge in the Netherlands today about the international legal significance of the former Yugoslavia Tribunal. This concerns in particular the crucial role of "The Hague" as a successor to "Nuremberg," the Allied military tribunal (IMT) of 1945-1946 on war crimes and crimes against humanity. Building on the "Nuremberg Principles" as codified by UN General Assembly Resolution 177 (1950), the ICTY's first-time application of the UN General Assembly Resolution 96 on

"the crime of genocide" (1948). Together with the Geneva Conventions of 1949, this is considered a breakthrough in the further development of modern international criminal law, on which, according to the Dutch government, the norms of the international legal order have been laid down and all contemporary tribunals have been built.[10] Despite the closure of the Tribunal in 2017, however, there is no empty building. It still houses the IRMCT, or "Residual Mechanism," which ruled in cases before the Chamber of Appeal, such as those of Karadžić and Mladić, until 2023, and which has a sustained legal, outreach, and archiving (and digitization) function in support of the Tribunal's legacy in the world, in the European Union, and in the five successor states of former Yugoslavia.

In this sense, one could speak of an additional third layer in the cultural biography of the building, which, in addition to monitoring legal cases referred to national courts, relates to other residual functions, such as trial readiness and the maintenance of extensive archives of the three main bodies of the Tribunal, namely the three Trial Chambers and the Appeals Chamber, the Office of the Prosecutor (OTP) and the Registry, which are still located in The Hague. In addition to legal documents, they contain an unparalleled number of testimonies, audio and photographic material, and personal belongings—which can raise important questions of ownership and accessibility in addition to conservation issues. For comparison, reference can be made to the archives of the Nuremberg Tribunal (IMT) that in 1950 were transferred for custody to the International Court of Justice (ICJ) in The Hague and whose Registry, together with the US National Archives and Records Administration (NARA), has been working with the Stanford Center for Human Rights and International Justice since 2015 to make them fully digitally accessible.[11] The former Yugoslavia Tribunal, however, has the unique advantage that its archives are still available on the site. This can be of great importance for future research, education and memory, but also for family members and diaspora communities for whom the outcome of a decision on a relocation of the archives—after a possible redevelopment of the Tribunal building—by (or to) the UN headquarters in New York may raise emotional concerns, apart from the logistical aspects.

Partly due to the Genocide Trial Archive (2014) at the Srebrenica Memorial Center (2003) in Potočari, which is also supported by the Netherlands, the significance of the ICTY's archives has also become increasingly important as a memorial archive in Bosnia-Herzegovina. This also applies to The Hague itself because of the intended memorial by the foundation National Monument Srebrenica Genocide '95 (NMSG'95), which has been fully supported by the municipality since 2020 and currently also by the central

government. However, the proposed location—on the forecourt of the Courthouse—depends largely on the future use of the building and its surroundings. Just before this report went to press, the House of Representatives also called on the government to actively work for such a national monument for both relatives and veterans, "preferably in The Hague opposite the former Yugoslavia tribunal given its historical and symbolic value".[12]

In this Report, the history and heritage of the Tribunal are therefore explicitly placed in the context of a forward-looking approach to the heritage and memory value of the Tribunal. Building on the 1907 Hague Convention and the International Court of Justice and the Nuremberg Principles, the UN Tribunal in the City of Justice and Peace embodies the idea of the European Union of Values, for which the European Union was awarded the Nobel Peace Prize in 2012. Partly because of the reputation of the ICTY, The Hague has also since 2002 hosted the International Criminal Court (ICC) based on the Rome Statute (1998), and since 2016 the Kosovo Tribunal (KSV) at the request of the EU. A new situation is currently emerging with the unprecedented threat to the European security order in the wake of February 22, 2022. Based on a decision by the European Commission, and with the support of Eurojust, it now also provides space for an International Centre for the Prosecution of the Crime of Aggression (ICPA) to prepare trials against Russian leaders of the invasion as a prelude to a possible Ukraine tribunal. The Netherlands is also one of the initiative states party to the 2023 "Ljubljana-The Hague Convention on International Cooperation in the Investigation and prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and other International Crimes," named after the Slovenian capital where the negotiations took place and the Dutch capital where the official signing ceremony was held in January 2024.[13]

It can therefore be assumed that a failure to recognize the significance of the building as the seat of the UN criminal tribunal entails risks both for the survival of The Hague's reputation as an international City of Peace and Justice, and for that of the Dutch State as the guardian of the international legal order according to Article 90 of the Constitution.[14]A restoration of the material authenticity, which flawlessly evokes the design of Van der Steur with the taking away of the legacy of the Tribunal, might ignore its no less important immaterial identity. A thoughtless undoing of these renovations, for example by removing the courtroom, might give the impression to victim communities, but also to "perpetrator countries," to the international legal community, and perhaps also to other UN member states on whose behalf the convictions were pronounced, that the Netherlands does not want to

guarantee the legitimacy of the tribunal by anchoring its material results in the national and international memory.

This UvA research and assessment therefore explicitly addresses the need to understand such seemingly separate, but in fact closely related questions of materiality and legitimacy, to ensure that the unique legal significance and high intangible value of the Tribunal building are anchored in public memory for future generations. To this end, the report will make several academically substantiated recommendations. This is done according to academic standards and international treaties as implemented in recent heritage visions and national legislation.

Towards an Integrated Research and Assessment Approach

The present research report thus aims to take the two parallel narratives of architecture and cultural history, here understood as discourses on material and intangible heritage, as a basis for a historical interpretation, site analysis, and memory value mapping. However, the guiding principle will *not* be the architectural preservation of built heritage, focusing on values such as authenticity, uniqueness, historical style and design, since the concept of heritage is culturally constructed. Such an aesthetic and material approach to monuments as works of art has over recent decades increasingly given way to a more citizen-centered heritage approach that focuses on acknowledging the historical significance and intangible mnemonic values attached to a site. As explained in the next chapter's theoretical framework, this report will adopt as the effective starting point for its research and evaluation approach not the *object* but the *people*.

Since the introduction of the Monuments Act of 1988, valuations have been mandatory in Dutch monument conservation, which has led to the publication of many guidelines for architectural-historic surveys and valuation methodologies. However, not much is known about their actual impact on the preservation and transformation of historic buildings, and even less about the impact of the new Heritage Act of 2016. Because there are still few examples of heritage research and memory mapping of historical monuments, the UvA Committee endorses the importance of an interdisciplinary research and evaluation framework.[15] A main objective of this report is therefore to provide a guiding vision aligned with academic scholarship in the fields of heritage and memory studies, archival studies, legal and transitional justice studies, and material culture studies in order to operationalize the key research questions related to the topics defined

above. This report can therefore be considered as a first case study into the memory value of monumental heritage.

In this sense, this advisory report is also closely in line with a new approach to Dutch heritage policy as formulated by the Minister of Education, Culture, and Science (OCW) and the Cultural Heritage Agency of the Netherlands (RCE). Central to this is the handling of "heritage of significance" (*erfgoed van betekenis*) and that of "fraught heritage" (*beladen erfgoed*), a label recently attributed to the Yugoslavia Tribunal building by the Chief Government Architect (Rijksbouwmeester).[16] Of such locations, which despite its elegant modernity the building of the Former Yugoslavia Tribunal so strikingly exemplifies, it has been said, "the stones may be centuries old, but the tensions are contemporary."[17] This new policy framework, which emphasizes the importance of "the significance of social heritage," is anchored in the 2018 Policy Letter *Erfgoed Telt/Heritage Counts* and the 2020 Letter to the Dutch Parliament regarding national heritage, which focuses on the *Canon of the Netherlands*—one of the "windows" (i.e. topics) of which highlights Dutch involvement in the Fall of Srebrenica.[18] Most recently, the framework has been embedded in the Council of Europe's FARO Convention (2005), which the Dutch government signed in 2024, and which emphasizes the "binding value" of heritage as a human right, in the sense of citizens' participation in the protection of existing and future heritage.[19]

While intrinsic values (especially with regard to measurable criteria of material authenticity) are still important in safeguarding practices, this *heritage turn* in dealing with monuments is mainly about their public appreciation as heritage sites. However, this often takes place in public debates about the restoration and transformation of monuments and public spaces, which can evoke strong emotions and political response, partly because they resonate within broader networks that transcend their immediate surroundings.[20] At issue may be a controversial deterioration of urban quality, or the preservation of historical heritage, or indeed symbolic meanings for specific (trans)national memory communities, sometimes involving traumatic experiences that call for injustices to be recognized. Freighted with values and interests, such networks can harmonize, or encounter mutual misunderstandings, as in the case of a fraught past, conflicting identity claims or "dissonances" in the meaning and use of heritage. Such heritage dissonances can also arise when the public appreciation of heritage clashes with professional expertise, or with the project planning envisaged by clients. As will be argued, all such conflicts and dissonances between national and international actors and stakeholders play a role in the assessment of the former Yugoslavia Tribunal as a place of heritage and memory.

The challenge of a possible transformation or planning intervention is then to arrive at a coherent heritage policy framework based on this "dynamic interconnectedness of politics, science and economy".[21]

Nuremberg Principles Reaffirmed in the City of Peace and Justice

To better understand the context and significance of the former Yugoslavia Tribunal, Chapter 3 presents a dynamic perspective on the intertwined development of the Yugoslav Wars and the establishment of the ICTY in The Hague. Following the historical background and the atrocities committed in various former Yugoslav regions beginning in 1991, which led to great international outrage and calls for military intervention and the investigation and prosecution of war crimes, attention was drawn to The Hague as a possible seat of a first UN war crimes tribunal building upon the legacy of Nuremberg and Tokyo. The "legal capital of the world" was an obvious choice considering that the International Court of Justice (ICJ) as the only principal UN organ outside New York was seated since 1946 in the Peace Palace in The Hague. This successful profiling may also have benefited from the appointment in 1992 of the new UN Secretary-General Boutros Boutros-Ghali, who from the 1960s was director and then member of the Supervisory Board of the Hague Academy of International Law, which was equally based in the Peace Palace since 1923.[22]

The national government had by this time successfully lobbied to attract other, permanent international institutions, with the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993 being the first UN war crimes tribunal to be assigned to the de facto capital. Following initial agreements with the United Nations on the search for a suitable location for the Tribunal and its staff, the Dutch government established a formal relationship with the ICTY through the "Host Country Agreement" between the UN and the Kingdom of the Netherlands signed May 27, 1993, in New York. As a result, it took full responsibility for the accommodation and modifications to the building, the Court and other facilities as required, such as the still existing UN Detention Unit housed within the walls of a Dutch penitentiary in Scheveningen, and the transportation of detainees between airports.[23]

Although the International Criminal Tribunal for the former Yugoslavia did not estimate its chances of success very highly in 1993 due to lack of money and experience, by the time its mandate ended a quarter of a century later, it was widely regarded as an unprecedented success. The Tribunal had

heard more than 4,000 witnesses and brought most of the suspects to trial, including a head of state for a very first time. In doing so, it had pushed the boundaries of humanitarian and international criminal law and, in its own words, "played a crucial role in bringing justice not only to people in the former Yugoslavia, but around the world."[24]

The same was true of the European Union, which guiding principle of a "union of values" based on the rule of law, human rights, and fundamental freedoms at the time of its creation with the Maastricht Treaty in 1992 initially seemed to fade in the light of Europe's impotence in the face of the ethno-nationalist explosion in the Balkans.[25] Yet two decades later, in 2012, the EU was awarded the Nobel Peace Prize in Oslo for its contribution to "promoting peace and reconciliation, democracy and human rights in Europe" after World War II and through its eastward expansions at the beginning of the 21st century, which was rooted in the principles of Nuremberg and The Hague.[26] That same year the city of The Hague was granted permission by royal decree to use the motto "Peace and Justice" in its coat of arms.[27]

One important reason for the Netherlands' worldwide reputation in the field of justice and foreign diplomacy is the legacy of Hugo Grotius, the 17th-century "father of international law." The status of The Hague as the capital of international law, dates from the Hague Conference on Private International Law in 1893. The First and Second Hague Peace Conferences of 1899 and 1907 led to the establishment of the Permanent Court of Arbitration (PCA), which has been housed in the Carnegie Peace Palace since 1913.[28] Another important contributor to the European significance of The Hague was the Congress of Europe (predecessor of the Council of Europe) chaired by Winston Churchill in 1948. In his address to the "Movement for European Unity," he proclaimed as his mission "the idea of a Charter of Human Rights, guarded by freedom and supported by the law." Punctuated by applause, the art-loving British wartime leader invoked international human law as a legal basis to "rebuild Europe from its ruins and shine its light on the world again," by first "conquering ourselves" so that "the sublime, with its miraculous transmutations of material things, can be brought into our daily lives."[29] It can hardly be considered a coincidence that 46 years later, the International Criminal Tribunal for the former Yugoslavia in The Hague would eventually, in the spirit of Churchill's Charter, be housed at Churchillplein 1.

There is, accordingly, no doubt that the ICTY was primarily seen as the successor to the International Military Tribunal (IMT). But in what respects did Nuremberg and The Hague differ? Committee member Van der Wilt reflects upon similarities and differences from a legal perspective in this same chapter. Above all, despite groundbreaking innovations in

international criminal law and the application of the 1948/1951UN Convention against Genocide, the ICTY was not a military tribunal of victorious countries, but an instrument of the international community, based in a neutral country, reporting on war crimes, and not based on the idea of collective guilt. Chief Prosecutor Carla Del Ponte highlighted this in her 2002 indictment of Milošević, noting that there was no state or collective on trial: "It is an error that must be avoided [...] It is not the law of the Tribunal."[30] As UN ambassador Madeleine Albright stated in 1993: "The Nuremberg Principles have been reaffirmed...[but] this will be no victor's tribunal. The only victor that will prevail in this endeavor is the truth."[31]

In addition, a crucial difference can be pointed out in the scope of the Yugoslavia Tribunal. Unlike the Nuremberg (and Tokyo) tribunals, the ICTY for the first time in history investigated war crimes and crimes against humanity committed by all sides with the help of witnesses and support from national organizations—at least as long as the prospect of financial support or EU membership outweighed national anger among the new countries in the former Yugoslav regions. The list of suspects was not compiled from a list of prisoners from victorious nations; rather, the ICTY's Fugitive Tracking Unit itself drew up lists of wanted persons in what with some exaggeration has been called "the most successful manhunt in history."[32] A significant number subsequently surrendered voluntarily, however, while a large majority of the suspects were arrested by local authorities in their respective countries. Of the 161 individuals indicted, "not one remained a fugitive from justice when we closed," according to the Tribunal's last Chief Prosecutor.[33]

Srebrenica and the Duty to Remember

To explain the conflicting memories and dissonances about the Tribunal's heritage, this report (also in Chapter 3) pays brief attention to the divergent Dutch and international responses to the "Srebrenica affair" and its impact on the reception of the UN International Criminal Court in the Netherlands. As stated above, these are questions about the moral, political, and legal co-responsibility of Dutchbat, the Dutch government and the UN High Command in connection with the mass murders committed by Bosnian Serb forces from July 11 to 22, 1995 against the Bosnian Muslim (Bosniak) population, in the enclave of Srebrenica-Potočari in eastern Bosnia—classified as genocide in 2001 by the ICTY, for being an act committed with intent to destroy, in whole or in part, a national, ethnic, or religious group.[34] Because the population had been placed under the protection of the Dutch

peacekeeping force led by UNPROFOR, the fall of the enclave was in the Netherlands also felt as a defeat for the Dutch UN "Blue Helmets," whose voices, with the scorn heaped upon them after their return, were long barely audible in public debate, while suspicions of betrayal soon circulated among Bosnians.

This military peacekeeping failure had major consequences for the Dutch processing of "Srebrenica" in the coming decades. Although the government took political responsibility in response to the findings of the 2002 NIOD research report, it did not fully adopt NIOD's conclusion on the shared responsibility of the Dutch State and the UN High Command for the fall of the enclave, but assigned responsibility mostly to the international community. As questions of guilt or liability were avoided in the political debate, they were largely delegated to the courts, where Bosnian and Herzegovian victim groups like the Mothers of Srebrenica sought justice, holding the Dutch state responsible for the failure to protect the refugees at the Dutchbat compound in Potočari,[35] along with Dutchbat veterans, who blamed the State for their "impossible mission."[36]

The shock to the international community as a result of the Srebrenica massacre thus not only strengthened *global* support for the Tribunal in The Hague, but also seems to have exerted a shrinkage of *local* interest in UN peacekeeping and the Tribunal in the Netherlands for decades. This national indifference was also evident from the findings of a 2020 PAX report on the attention paid to the genocide in Srebrenica in Dutch education. Despite an undeniable national connection, Europe's most horrific post-war atrocity was conspicuous by its absence from Dutch school textbooks.[37] A striking result, which may contribute somewhat to the puzzling fact that the Tribunal, despite its initial affiliation with the Dutch tradition of international justice and peacekeeping is not firmly anchored in national memory as one would like to believe or hope.

However, the same cannot perhaps be said of Dutch foreign diplomacy, in which foreign aid was an instrument for acknowledging the failure of peacekeeping in Srebrenica. One of the main forms of accountability involved the Srebrenica-Potočari Memorial and Cemetery for the Victims of the 1995 Genocide, which, since its establishment in the early 2000s, has been generously supported by the Ministry of Foreign Affairs and the Dutch peace organization PAX and Holocaust Memorial Camp Westerbork. Along with the handling of most court cases and the broader impact of moral compensation on relatives of victims of the Holocaust, the outcome of the PAX report may have influenced a growing attention to the traumatic consequences of Srebrenica among victims and veterans. In 2020, Srebrenica was more

explicitly included in the *Canon of the Netherlands*, the main instrument for history education,[38] and that same year, the mayor of The Hague expressed his support for the call of NMSG'95 fundation for the establishment of a Genocide Memorial Srebrenica in The Hague.[39]

But the clearest indication of a new chapter in the Netherlands' handling of its painful past was the speech of the Dutch Defense Minister Kajsa Ollongren during the annual commemoration and reburial of identified victim's bodies in Potočari on July 11, 2022, in which she officially apologized "profoundly" for the "*shared* responsibility" of the government and the international community for the failure to protect the population of Srebrenica and thus prevent the "terrible genocide." The Minister, who used the term genocide three times, also pointed to the crucial role of the ICTY in The Hague in prosecuting the main ringleaders and promoting peace in the region. Finally, after a long period of proceedings against the state, she expressed her recognition and support for "relatives [of victims] and veterans of Dutchbat" who made themselves heard together "in The Hague—the international City of Peace and Justice—where a national monument for the genocide of Srebrenica is being worked with one voice."[40]

While this promise has not yet been fulfilled, the urgency is clear given the recent UN General Assembly Resolution 78/282 of May 2024. At the initiative of Germany and Rwanda with the active support of the EU and the Netherlands and adopted by a large majority of States Parties, July 11 has been declared the International Day of Reflection and Remembrance of the 1995 Srebrenica Genocide. As with the commemoration of Holocaust Memorial Day, Member States are urged to actively commemorate this genocide and challenge its denial through research, education, museums and memorials.[41] While the search for victims and the reburial of dead bodies in and around Srebrenica is still ongoing after thirty years, the duty to remember is, according to Christoph Busch, "an acknowledgement of the failure of the international community to provide protection to those in acute need and to draw lessons from this."[42]

This report on the historical importance, legal significance, heritage and commemorative values of the former International Criminal Tribunal for the former Yugoslavia in The Hague will therefore take an integrated approach to the safeguarding of the heritage and memory value of the Tribunal, which cannot be seen separately from the traumatic memories of the failed peace mission in Srebrenica. For this reason, this assessment also extends to the wish of the NMSG'95 Foundation for a National Monument and a documentation center in the building itself, where the International Criminal Court has made history by recognizing the mass murder as

genocide. Because—also with a view to the thirtieth commemoration of the genocide in 2025—without doing justice to the acknowledged wishes of these diverse local, national and international stakeholders, the committee foresees an extremely difficult legitimacy problem for the Dutch government.

Overview and argumentation

From 1993 to 2017, the monumental façade of Churchillplein 1 served as a global logo for every major judgment of the International Criminal Tribunal for the former Yugoslavia, although it should be noted that criminal investigations, archival work, and legal processes are still ongoing and the IRMCT is still closely involved in transitional justice in the new states of the former Yugoslavia.

At the same time, however, the Tribunal has also had a profound impact on the urban environment of The Hague. Chapter 2 emphasizes the agonistic municipal and citizen perspectives on the spatial dynamics and embedding of the ICTY in the modernist heart of the new International Zone, and how its rapidly expanding global legal, political, and social networks have left a large footprint on the local urban environment. In the light of this "glocal" dimension, the Committee strongly endorses Crimson's warning that care must be taken to ensure that a thoughtless removal of the material legacy of the UN Tribunal "does not erase an important part of recent history."[43] For, as one local historian noted in reference to the key role of the ICTY for The Hague's International Zone in the 1990s, its "gigantic satellite dishes at Churchillplein are illustrative of the frequent attention of the world media focused on this important tribunal."[44] Yet these iconic markers on the roof and in the gardens, watched by millions of television viewers from between 1994 and 2017, are no longer present today. This is just one example illustrating how such "worthless" elements detrimental to the appearance of a building, deserve protection because of their high symbolic function and memory value, and how pertinent such a warning is, perhaps especially for "disturbing" additions to heritage with a recognized high monumental value.

These removed dishes had everything to do with the innovative role of the ICTY television production system, the introduction of remote video testimony and the housing of foreign media that broadcast the trials in front of the monumental façade, as Committee member Finci describes from an insider perspective (in Chapter 3). It shows how the Tribunal's

Figure 0.2. The building of the Tribunal at Churchillplein 1, with the large satellite antenna adjacent to the building, 2013. Photo ICTY.

development benefited from the rise of global communications media in the early 21st century, which went hand in hand with the expansion of information networks that allowed all major judgments to reach a global audience in real time. The thousands of images of suspects and witnesses created new forms of mediated visibility and changed the cultural codes of public narratives and ultimately the nature of power, which became increasingly symbolic and multipolar.[45]

This also had another effect. Like the Stockholm International Forum Conferences on the Holocaust (2000-2004), The Hague Tribunal contributed greatly to the "memory boom" in the decades around the turn of the millennium, the "age of the witness."[46] Its pivotal role in the worldwide media attention of the prosecution of the perpetrators of the Yugoslav Wars anchored the Hague Tribunal in the world's collective memory. Crucial to this was, and is, the Tribunal's unique archive with thousands of testimonies from the former Yugoslav regions, perpetrator investigations, and court records. After all, whereas the Nuremberg trials could draw on a vast body of documents already collected by the Allies, at The Hague all the evidence from witness statements and forensic investigations was produced and archived by the UN ICTY itself. As will be shown in Chapter 4, the ICTY was therefore at the forefront of a global "archival turn" that, in line with the international heritage debate, is more about people than objects, in other words, developing from a historical into a "living archive." Interestingly, an analysis of UN reports and decisions from the 1990s and 2009-2010 on the former and possible future

location of the Tribunal Archives also reveals a striking affinity between these earlier explorations and current discussions about the future of the UN archives in the International City of Peace and Justice.

Finally, the methodology of memory mapping, as developed in Chapter 5, will be based on a functional and cultural site analysis of Churchillplein 1 since its use by the ICTY. This concerns the legal function as a UN Criminal Court, with its three Trial Chambers (two of which are still in place, one still in use), but also its staircases and further additions since 1994. For the dynamic dimension of the building's use over the past three decades has not yet been properly mapped and interpreted. Little is known, for instance, about the austere functionality of the successive renovations intended to lead suspects and witnesses from the side entrance to the courtrooms via separate routes and waiting rooms, or about the accommodation for the hundreds of international judges, prosecutors, lawyers, translators, and security guards, or for the reception of journalists, family members and other visitors. This will be done from a layered local, national, and international perspective, to better understand the cultural-historical, political, legal, and spatial aspects of the transformation of the building, the functioning of the Chambers, Registry, and Prosecutor rooms, its (still functional) archives, and the role of the former outreach mechanism, along with the spatial use of rooms and routings for suspects, defendants, prosecutors, judges, media, family relatives, and the public from the basement to the top floors of the building.

This report thus sees the building of the former ICTY as a unique heritage site by virtue not only of its legal history, but also of its future cultural impact. That impact comes mainly from its symbolic meaning, although the monumental appearance of the site also contributes greatly to its status as, in recent parlance, a "legal monument."[47] In addition to a spatial assessment of the functional values of the ICTY, the report will conclude with various recommendations for the protection of Churchillplein 1's memorial values. Based on the intended safeguarding of both its monumental and memorial values, the emphasis lies on a future transformation that meets the recognition underlying this research of problems of legitimacy and identification raised by an expected repurposing of the building and the extensive and highly-charged archives. This study will therefore also include the former communications, documentary, and archival functions of the ICTY and currently the IRMCT.

As regards their importance to the Tribunal as a place of heritage and remembrance, this UvA report will also suggest various recommendations for a documentation center and a meaningful location for the proposed

National Srebrenica Monument on the forecourt of the Former Yugoslavia Tribunal. In doing so, it builds on existing suggestions and some relevant foreign examples. With this in mind, this report seeks to provide a balanced assessment of this fraught heritage site so that, in recognition of its outstanding national and international significance, it may may sooner or later serve in some form as an important "Monument to Justice" for future generations in the City of Peace and Justice.

Rationale of Interviews and Site Visits

For the purposes of this research, committee members spoke with various stakeholders and attended multiple events and memorial sites connected to the history of the Yugoslav Wars and the Tribunal. We assured the stakeholders we interviewed that they would remain anonymous unless explicitly agreed otherwise: therefore, no names are given here. This section provides an overview and account of the Committee's site visits, interviews, and conversations.

During this research, several visits were made to the building at Churchillplein 1, the former ICTY that is still in use by the IRMCT. The purpose was to gain a sense of the building in relation to the functions it fulfilled during the Tribunal's operation. Committee members received detailed briefings by staff from various departments and were given multiple tours to understand how the building was modified by the United Nations to accommodate the Tribunal's activities. A key focus was understanding how different functions within the Tribunal were interconnected and how this was reflected in the building's internal design. For example, logistics played a major role: the transport of suspects to the Tribunal, their movements within the building, security measures, and the routes taken by witnesses and the public. These aspects are discussed in detail in Chapter 5. Additionally, several visits were made to capture detailed 3D images of specific areas for future use, and to ensure a high-quality record of selected parts of the building. This part of the research was carried out by the UvA's 4D Research Lab, which also developed a mockup based on these scans in combination with various audio and video fragments from the ICTY, giving an impression of how digital technology can help display events and locations (see figure 0.3 and appendix 1).

The participation of committee members Van der Laarse, Jeurgens, and Szilágyi in the international expert meeting "The Contribution of Archives to Transitional Justice and Beyond" at the Srebrenica Memorial Center

Figure 0.3. Capturing 3D images in Courtroom 1, May 2024. Photo ICTY.

in Potočari, Bosnia and Herzegovina, on December 7 and 8, 2022, was of relevance to the research for Chapter 4. This event, organized by the Srebrenica Memorial Center, the Open Society Archives of Central European University Vienna, and PAX, took place before the formal commissioning of the research, when the RVB was already in talks with the University of Amsterdam about conducting this research. The expert meeting provided an excellent opportunity to engage in conversation with curators of the Srebrenica Memorial Center, survivors of the genocide, including the Mothers of Srebrenica, and scholars from different disciplines and countries about the importance of heritage and archives in preserving the memory of the genocide. During the expert meeting, participants also explored the emotional and symbolic significance of the building that housed the ICTY for the various communities affected by the wars in the former Yugoslavia, where several attendees had also acted as witnesses.

In view of the memory mapping and future memory perspective applied in Chapter 5, committee member Tanović visited the ICTY Information Centre in Sarajevo City Hall on a research trip in 2024, where the Hague Courtroom 2 is now included in the permanent exhibition for the sake of an ex-situ authenticity experience. Among others, she also conducted an online interview with a specialist responsible for the center's curation, who provided detailed insights into the structure, goals, and plans, emphasizing its connection with The Hague. This spokesperson also relayed a message from the mayoress of Sarajevo, Benjamina Karić, who had previously responded to the Committee's inquiry regarding the importance of Churchillplein 1.

That same year, the research team visited Nuremberg, Germany, where it toured the former Palace of Justice. This was the site of the Nuremberg Trials, held from 1945 to 1946, and where the United States also held subsequent

trials in the enlarged Courtroom 600, lasting until 1949. This visit was of crucial importance, not only because the ICTY directly built on the Nuremberg Trials—and both played an important role in the development of international law—but also because the German government's approach to the memorialization of this period has proved highly relevant to this report, both from a historical and from a memory perspective. The team became aware of the successful memorial museum complex Memorium Nuremberg Trials that opened in 2010 and the adjoining International Nuremberg Principles Academy, each with a full staff in separate wings of the former Nuremberg Palace of Justice. It had an in-depth conversation on site with a research expert and curator from the Documentation Center, learning how the courtroom, which was still in use until recently, has been transformed into a site of memory, and an online conversation with the director. For similar reasons, the team also visited the ongoing reconstruction and conversion work at the *Dokumentationszentrum Reichsparteitagsgelände* (Documentation Centre of the Nazi Party Congress Grounds), one of Germany's most controversial heritage sites, which is also managed by the city of Nuremberg.

After the Nuremberg Palace of Justice was returned to the Bavarian authorities, it again served as the Higher Regional Court, until the famous courtroom was taken over by Memorium in 2020 and opened to the public two years later. Interestingly, the media installation at the site, which takes visitors back to 1946 in black and white images, begins with a presentation in color of the trials in the Yugoslavia Tribunal in The Hague as an example of the impact of the Nuremberg Principles in what it presents as the direct successor of Nuremberg.[48] In Chapter 5, both the ICTY's Courtroom 2 exhibited in Sarajevo, and the exhibition and the iconic Courtroom 600 are taken as important benchmarks for the Committee's reflections on the mnemonic value and future of the ICTY.

Throughout the research, several semi-structured interviews and additional conversations were conducted to collect further background information. At different stages, committee members engaged with staff from the IRMCT (formerly ICTY), both on-site in The Hague and online. These interviews mostly involved personnel from administration and operations, security, outreach, and archives. In all cases, the on-site interviews were combined with fieldwork. In one of these conversations, committee members learned of an initiative by the Humanity House 2.0 Foundation (2013-2016) to create a museum, in collaboration with the IRMCT and the Municipality of The Hague, focusing on peace and justice in the former ICTY-building. It was followed by an extensive conversation with one of

the foundation's former representatives. This initiative, which seems to have lost momentum after the closure of its main local promoter, Humanity House, during the COVID-19 period, will be discussed further as part of the report's conclusions and recommendations.[49]

The Committee also interviewed numerous stakeholders from Bosnia and Herzegovina, Croatia, and Serbia who reside in the Netherlands and are connected to the history of the ICTY in different ways. Many of these individuals are also Dutch citizens. Among them were two prominent activists and survivors of the Bosnian genocide from the Bosnian community, a representative from the NMSG95 organization, and a historian specializing in transitional justice regarding the former Yugoslavia. We also spoke with young professionals and scholars from the Bosnian and Serbian communities in the Netherlands, who shared how the ICTY and their experiences with it have influenced and shaped their work. In May, the Committee interviewed a member of Dutchbat III to better understand their perspective on the ICTY and Churchillplein 1.

At one of the Committee's meetings with the IRMCT Information Programme for Affected Communities, it was agreed that the department would also reach out to its network of stakeholders to gather their thoughts on safeguarding the memory of the Tribunal, as to be used again in particular for the mapping of memories in the final, fifth chapter. This question was sent via email, and participants who responded were associated with the following: Museum of the 90s (Serbia, Montenegro, Bosnia and Herzegovina); Youth Initiative for Human Rights (Croatia, Serbia, Montenegro); Post-Conflict Research Center (Bosnia and Herzegovina); ForumZFD (Serbia); Sense Transitional Justice Center (Croatia); the University of Belgrade (a professor of history); Association "Pravnik" (Bosnia and Herzegovina); European Association of History Educators (EuroClio); Serbian Association of History Teachers (UDI EUROCLIO); Association of History Teachers in [North] Macedonia (ANIM); Association of History Teachers in Montenegro (HIPMONT); NGO Pax: Participants in the MIP Inter-University Video Lecture Program; the following university law faculties: Union University and University of Niš, Serbia; University of Donja Gorica and University of Podgorica, Montenegro; Haxhi Zeka University of Peja and University of Prishtina, Kosovo; University of Rijeka, University of Split, and University of Zagreb, Croatia; University of Sarajevo (Faculty of Law and Faculty of Political Sciences), University of Tuzla, University of Vitez, and University of Zenica, Bosnia-Herzegovina; Ss. Cyril and Methodius University of Skopje, North Macedonia.

In almost all cases, a report was made by the project secretary or by a committee member. In a dozen cases, full transcripts were also made based on audio recordings and videos, as well as excursion and brainstorming reports. Minutes have been made of the meetings of the full committee and of the writing team, sometimes supplemented by other committee members and advisors such as the 4DRLab. Sometimes only notes were taken by one or more committee members, while information was also obtained via email contact. Interviewees were asked in writing or in the interview whether they wanted to be named or anonymous. Because a few only wanted to speak "off the record" and some others preferred anonymity, and a few had no preference, the Committee anonymized all interviews as a starting point, but permission will be requested again prior to the publication of the final report. References to the interviews are included in the footnotes, with only the functions of the interviewees listed by default, except in a few cases where the interviewee asked to be named.

Notes

1. Speech by Minister of Defense Kajsa Ollongren at the Srebrenica commemoration in Potočari, July 11, 2022, translated from Dutch, available at Ministerie van Defensie, URL: https://www.defensie.nl/downloads/toespraken/2022/07/11/toespraak-minister-kajsa-ollongren-bij-srebrenica-herdenking-in-potocari#:~:text=Toespraak%20van%20minister%20van%20Defensie,ik%20diep%20van%20doordrongen%20ben . (Accessed March 15, 2025).
2. At the time of its designation as a *rijksmonument*, the ICTY building was owned by Classic Real Estate B.V. and Lotar Monuments B.V. After 2018 it was sold by another full owner PingProperties Trophy Fund to the State of the Netherlands, which in consultation with the Municipality of The Hague is searching for a new location for IRMCT before a final decision about the future destination of Churchillplein 1 can be taken. In its 2024 Annual Report to the Security Council of the UN, the IRMCT writes of the premises at The Hague, "in 2022 the Host State asked the Mechanism to consider a permanent move to alternative premises, as the current building requires substantial refurbishment. The Mechanism and the Host State are actively engaged in discussions on suitable alternative premises"; "Twelfth annual report of the International Residual Mechanism for Criminal Tribunals from the President addressed to the President of the General Assembly and the President of the Security Council," *Security Council*, 79th session, July 29, 2024, art. 75, UN/IRMCT, URL: https://docs.un.org/en/A/79/249 (Accessed March 20 2025).

3. Ronald Plasterk (Min. OCW), "Besluit aanwijzing beschermd monument Churchillplein 1-4 / Eisenhowerlaan 85-87 / Johann de Wittlaan 52-54" (Den Haag, October 27, 2009), *Besluit voormalig Aegongebouw*, Kennisbank RCE, URL: https://cultureelerfgoed.info/kennisbank/Besluit_Vm_Aegongebouw_530892.pdf, and compare "Churchillplein 1, 2517 JW te 's- Gravenhage," Redengevende beschrijving Rijksmonumentenregister, *RCE-Min. OCW* (Accessed August 31, 2024). https://monumentenregister.cultureelerfgoed.nl/monumenten/530892 (Accessed August 31, 2024).
4. The Committee is grateful that it was able to make use of the assessment report commissioned by the RVB and prepared by Crimson Architects Rotterdam, which was made available by the Client, first as a draft report of March 2020 and later as the final report "Voormalig hoofdkantoor verzekeringsbank EN- NEN te Den Haag. Cultuurhistorische verkenning en waardestelling" ("Former Headquarters of the EN-NEN Insurance Bank in The Hague," Crimson: Rotterdam, January 2021), hereinafter cited as "Crimson Report 2021"); the 2020 draft version (with a slightly different page numbering than the final report, here cited) is since 2025 available online: https://usercontent.one/wp/www.crimsonweb.org/wp-content/uploads/2025/02/200401ChurchillpleinDenHaag_screen.pdf .
5. Crimson Report 2021, 252-253.
6. Crimson Report 2021, 255, also 252-3.
7. Crimson Report 2021, 247. Italics added.
8. Crimson Report 2021, 93, 247.
9. In December 2016, the General Assembly of the ADC-ICTY voted to adopt an amended Constitution which renamed the Association the "Association of Defense Counsel practicing before the International Courts and Tribunals" or "ADC-ICT," which was recognized by the Registry of the IRMCT "as the only official association of defense counsel practicing before the IRMCT," and which applies both to supervision of sentences of the former ICTY and ICTR in The Hague and Arusha; "Association of Defense Counsel," *ADC-ICT*, URL: https://www.adc-ict.org/about-us; "Counsel assignment, qualifications, and remuneration," *UN-IRMCT*, https://www.irmct.org/en/about/defence/defence-counsel-qualifications
10. "Nederland draagt bij aan internationale rechtsorde," *Min. Buit. Zaken/Rijksoverheid*, URL: https://www.rijksoverheid.nl/onderwerpen/internationale-vrede-en-veiligheid/internationale-rechtsorde
11. "Stanford Scholars expand digital database with historic records from the Nuremberg Trials," *Stanford Report*, September 30, 2021, URL: https://news.stanford.edu/stories/2021/09/stanford-scholars-expand-digital-database-historic-records-nuremberg-trial; "Taube Archive of the International Military Tribunal (IMT) at Nuremberg 1945-46", *Virtual Tribunals. International criminal tribunal records* (*1945-present*), Stanford University Libraries, URL: https://exhibits.stanford.edu/virtual-tribunals/feature/taube-archive-of-the-international-military-tribunal-imt-at-nuremberg-1945-46.

12. "Motie van het lid Nordkamp c.s., voorgesteld tijdens het notaoverleg van 16 juni 2025 (nr. 286)" 30-139 Veteranenzorg, *Tweede Kamer der Staten-Generaal*, URL: https://www.eerstekamer.nl/behandeling/20250616/motie_van_het_lid_nordkamp_c_s_2/document3/f=/vmoaihbd8qyt.pdf.
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Chapter One: Theoretical Framework

Abstract: This chapter presents the common research and assessment framework for this report. While the following chapters will show how the arrival of the International Criminal Tribunal for the former Yugoslavia contributed to the development of the International Zone of The Hague, how the monumental headquarters of an insurance bank was transformed into an international court of justice, and how this new layer of its biography might impact which material and intangible heritage values will or can be preserved for future generations as a monument of justice to the legacy of the Yugoslav Wars and the developing of international law, here, in this chapter, we will take first a closer look at what this inheritance means for our perception and appreciation of material things, like buildings, that can be celebrated (or reviled) for their authenticity and their symbolic meaning. It addresses the shift from a traditional "authorized heritage discourse" on monument conservation in terms of beauty, materiality, and artistic attribution to a user-centered, dynamic perspective on cultural heritage. This paradigm shift in heritage theory, policy and management has been translated in the Netherlands into the Heritage Act of 2016, which proposes an integrated assessment framework of heritage values based on historical importance, cultural significance and memory value. Heritage therefore includes a wide range from monumental architecture to intangible heritage, and from memorial sites to charged and 'dark' heritage. Churchillplein 1, the site of the former ICTY (and currently, the IRMCT), derives its importance, significance, and high values from a number of these criteria. Yet, because of the dissonances associated with them, it can also be described as emotionally "fraught heritage". The importance of preserving the "cultural biography", the risks of renovations and authentic "restorations", and the importance of historical traces and "signs of trauma" to keep the associated memories traceable, are discussed. For architects, users and everyone else involved in such a transformation process, keeping significant "memory heritage" legible for future generations is perhaps the biggest challenge.

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"It gets dark early in the Netherlands. It was November. At that season it hardly gets light. It was light in the courtroom. Too light. Everywhere you saw clear and sharp outlines; everything was so striking. In every possible way [...] *The court began to look more and more like a story told by dozens, if not hundreds, of people at once that I just couldn't understand. And I had to hear, know, and see everything. That building and the entire network that had formed around it also served as a kind of focal point—small and barely visible—one of the last remnants of Yugoslavia* [...] *My life, my greatest traumas were in that building, in the heart of it, in the reason why it was there."*[1]

Monuments: What's in a Name?

"Architecture is not about buildings, but about design." These words by German-English historian of art and architecture Nikolaus Pevsner, opening the introduction to his famous 1941 textbook *Outline of European Architecture*, have become one of the most quoted dictums in architecture.[2] Every Western-trained architect has been examined on the implications of this distinction. While every building has a function, only architecture can be valued by its form as an artistic creation, and thus "signed" by an author. This statement by Pevsner, already famous as the author of *Pioneers of Modern Design* (1936), a classic still widely read today, and soon to become head editor of *The Pelican History of Art* (1953), established the guiding opinion in architecture and architectural history that architecture was about *monuments*, which like art should be valued as unique expressions of the *Zeitgeist*, the peculiar spirit of the age. Architectural history thus essentially consisted of a history of monumental architecture, which, like art history, focused on the formal analysis of iconic works according to periods, style, and makers. The Holy Grail of what architecture is, therefore, also defined *what it is not*. In this sense, Pevsner's differentiation of form and function created its own authorized canon, as it were, of a new profession of academically trained architects and architecture as a subdiscipline of the history of art.

Modern design was the answer to the "ugly," imitative styles of 19th-century historicism. Its mythmaking was so effective that most 19th-century architecture was erased from the later canon of modern architecture, because of its supposed aesthetic impurity and lack of originality and character.[3] However, this modernist myth not only lacked a real historical understanding of pre-modern architecture, but also left a presentist mark on the preservation of monuments by architects with a predominantly

stylistic interpretation and appreciation of the monumental in the sense of a work of art. Although by far the most frequently used word in the fields of architecture and cultural heritage, "monument" is therefore a problematic concept. Derived from the Latin verb *monere* ("to remind") a causative form of *meminisse* ("to remember"), it can refer to a passive memory, but also to an active warning, as is still reflected in the two German words translating different aspects of "monument": *Denkmal* (emphasizing memory) and *Mahnmal* (emphasizing admonition). In everyday speech, monuments are often associated with specially designed historical memorials, such as cemeteries and stone statues commemorating past events or ancestors. Public monuments can be discredited over time as appreciation of historical periods evolves—as in the case of the J.P. Coen Monument (1893) in Hoorn, honoring the early 17th-century townsman who became Governor-General of the Dutch East Indies, but who nowadays is associated not with national pride, but with colonial slavery and the "Banda Genocide" of 1621.[4]

Another high-profile example in the Netherlands is the "forgotten" gravestones, bearing fascist symbols, commemorating members of the National Socialist Movement in the Netherlands (NSB), which collaborated with the Nazi occupation. Around the year 2000, experts classified these gravestones as unique and vulnerable remnants from a controversial historical period, and thus as eligible for legal protection under the Dutch Monuments and Historic Buildings Act of 1988 (*Monumentenwet*). Although the granting of monument status to war heritage is generally welcomed, in this case it elicited outrage from pressure groups, who saw it as a tribute to traitors, or worse, Nazi perpetrators of the Shoah. The dual meaning of the word "monument" as *Denkmal* and *Mahnmal* was evidently too equivocal in the context of traumatic memories of the Nazi-German occupation. In the light of such misunderstandings, a Dutch advisory report proposed to confine use of the term "monument" to honorific monuments (*gedenktekens*, "memorials," or *eretekens*, "honors"), and to refer to historic buildings and other immovable traces from the past like the NSB gravestones as "heritage sites." In this regard, the report suggested that the Monuments Act might better be called the "Historical Heritage Act"—a suggestion that became reality thirteen years later with the Heritage Act of 2016 (*Erfgoedwet*).[5]

While the term "monument" carries very different connotations of cultural heritage, there is a common bond. Since the rediscovery of Greco-Roman sculpture and architecture in the Renaissance, monuments (of all kinds) have been considered the most aesthetically valued relics of antiquity. Buried in the earth since the Vandal Sack of Rome in AD 455 through centuries of medieval oblivion, they were salvaged and hailed as

the foundational artistic glory of European civilization and the standard of eternal beauty (purged of barbarian influences). At the same time, their unique origins and vulnerability drove a realization that these monuments, representing values of Humanism, had to be protected against the constant threat of "vandalism." In this sense, the restoration of monuments stood for historical justice.

This fear of loss grew in scale after the French Revolution and Napoleonic Wars, when revolutionary looting and iconoclasm fueled an awakening of national sentiments that inspired the saving, preserving, and canonizing of monuments of art and history. Romanticism's call for restoring the monumental past in a sense mirrored the spirit of the political Age of Restoration on the European continent after 1815.[6] Thus, while the civilizing mission of modern nation-states was built on the progressive Napoleonic legacy of standardized languages, currencies, weights and measures, clock times, postal services, railroads, public education, conscription, personal records, and monument registers, it was also permeated by a conservative wish for national awakening. To this day, the European discourse of monumentality (not to mention the symbolic language of power politics) still reflects an antagonistic intertwining of a universalist *Ordnungswahn* (craze for regulation) and a Romantic "heritage crusade", as represented in a transformative "nostalgia [that] tells it, like it wasn't."[7]

These inventions of traditions – often harking back to older customs and objects – provided new nations with a centuries-old national history and cultural heritage, as displayed in national museums and monuments.[8] They also often express a desire to inculcate an aesthetic elitism to visitors to stately homes, tourist towns, and picturesque landscapes, and to some of the country's "monumental" parliament buildings, the "palaces of justice." Besides such monuments to civilization and good taste, international treaties for the protection of national and cultural patrimony protect exceptional cultural artifacts, archaeological sites, and endangered natural species for their uniqueness.

Yet not all monuments are protected for beauty or uniqueness. Crime scenes of the World Wars of the 20th century and later acts of violence have also been monumentalized into places of remembrance to prevent their disappearance. Symbolic value here concerns an exceptional atrocity associated in collective memories with the existential fate of nations or even of the civilized world. Such "dark heritage" has attracted more and more visitors in recent decades, as at the Nazi German extermination camp Auschwitz-Birkenau in Poland, recognized as a UNESCO World Heritage Site in 1979.[9] Interest in similar "trauma sites" across Europe has since grown so

rapidly that "camps" have begun to compete with "palaces." Thus, together with the Hague Peace Palace, the Holocaust Memorial Camp Westerbork received a European heritage listing in 2014 "thanks to its history, which has links to crucial topics in European history, such as occupation, persecution, migration, decolonization, and multiculturalism."[10]

With some justification, a British scholar of dark tourism recently lamented the success of Amsterdam's globalized Anne Frank Huis, Europe's second most visited Holocaust heritage site after Auschwitz—replicas of its "Secret Annex" with Anne's room even being exhibited in foreign museums. He complained that he had missed the famous and authentic diary entirely because of visitor crowding, while two British teenage girls he spoke to were confused by the glass and steel of the visitor center: "The modern architecture made the experience less authentic for them, and they doubted whether they were standing in front of Anne Frank's real house. But authenticity—this is where it happened, this is what it looked like—is crucial in this form of tourism."[11] However, there is also a claim of authenticity for *ex situ* conservation of secured artifacts in museum contexts, even in the form of an experienced authenticity using replicas, as in the full-scale reproduction of the Secret Annex of the Anne Frank House in Amsterdam, recreated at the Centro Anna Frank Argentina (Buenos Aires), and from January 27, 2015 in the Jewish Heritage Museum in Manhattan (New York City)—a museum "featuring more than 100 original artifacts," whose "new immersive exhibition in New York City will explore the young Jewish diarist's life and legacy."[12] Things and objects that are transformed into heritage and places of remembrance have a long lifespan. Even if mass tourism and architectural design sometimes seem at odds with the conservationist's traditional shibboleth of authenticity or with the moral ethics of remembrance activism, their common motive—and ours—is still, and even more than ever, the cultural production of values and meanings.[13]

Monuments and the Turn to Memorial Heritage

"A society's memory is negotiated in the beliefs and values, rituals and institutions of the social body, and in the case of modern societies in particular, it is shaped by public memorial sites such as the museum, the memorial, and the monument," as Andreas Huyssen noted.[14] Looking back from a 21st century perspective, it is hardly surprising that this appropriation, or reconstruction, of the past as collective heritage has long played a role in the way societies manifest themselves and the values attributed to them.

Perhaps more surprising is that despite the illusion of a past preserved in aspic, the value of monuments lies precisely in their cultural dynamics.

"Nothing is as changeable as a monument", said the former director of the Cultural Heritage Agency of the Netherlands (RCE) in his inaugural lecture as holder of the Monument Conservation chair in Nijmegen in 2000.[15] And indeed, the Dutch definition of a "national monuments" (*rijksmonumenten*) as a "built or constructed immovable property or archaeological sites of national importance" who should be protected because of their beauty, cultural-historical value or scientific significance" is not set in stone.[16] After all, their legal protection depend on the inclusion in a National Monument Register as to which the criteria of national importance must be determined on a case-by-case basis. The changeability of a monument in the Netherlands is linked to this casuistry. This concerns, in the first place, periodization. For a long time, most historic houses and public buildings of 150 years or older were automatically included in the Monument Register, but with the more recently added select category "modern heritage", the concept of historical antiquity has been abandoned, and age has become, as it were, fluid.[17] And because ageing plays a subordinate role in the case of modern architecture, beauty and history of use come to the fore as criteria of appreciation. This is strikingly illustrated by the explanatory description of the listing as a national monument in 2009 of Van der Steur's EN-NEN Bank, which still clearly betrays a "Pevsnerian" eye for the aesthetic quality of design, materiality and authorship, but at the same time refers to the international importance of the new user, the UN International Criminal Tribunal for the former Yugoslavia.[18]

Secondly, the changeable character of monuments also extends beyond stylistic assumptions because of today's heritage turn. Thus, according to the RCE, the above mentioned legally protected national monuments (*rijksmonumenten*, e.g. listed built heritage and archaeological sites) nowadays require the same framework of interpretation and assessment as "heritage sites" as "national memorials" (*herinneringsmonumenten*), which it defines as memorializing "major events or periods in the past."[19] However, because such sites, such as the hundreds of resistance and Holocaust memorials in Dutch municipalities, are usually designed (long) after the historical events to which they refer, they are not automatically considered historical themselves and have no legal protection.[20] And to add to the confusion, this does not mean either that the historical sites themselves are protected. To do so, they would have to have been preserved intact, which is rarely the case. This even applies in the Netherlands to some of its most traumatic historical memorial sites: the former Nazi-German concentration camps,

including the forementioned Memorial Camp Westerbork—despite its awarding of the European heritage label.[21] Even though these sites are nowadays delineated as places of remembrance, education, research and tourism, they mostly comprise heavily mutilated war heritage that has been fragmented, reused, and sometimes more than once radically redesigned.[22] The protection of these sites then rests at most on accidental archaeological values, or the authenticity of a single building. For example, the unique SS punishment barrack of the former Nazi-German concentration camp Vught, which is now part of the high-security PI Vught, has been given protected status as a national monument because of its iconic value as the location of the so-called "bunker drama" of 1944—the gruesome punishment of female resistance fighters with fatal consequences. However, its future as one of the Netherlands most fraught monuments is still uncertain.[23]

Finally, a user-oriented heritage paradigm also adds an important third agent to the cultural dynamics of a monument. Since the incorporation of the former Monuments Act into the overarching Heritage Act of 2016, a shift has taken place in government policy and the world of architecture, from a fragmented approach to monuments based mainly on materials and aesthetics to a more integrated approach to sites and ensembles as cultural and historic heritage. The new Act, on the one hand, defines cultural heritage as "tangible *and* intangible sources inherited from the past", created over time by the interaction between humans and the environment, "which *people*, regardless of their possession, identify as a reflection of *constantly evolving* values, beliefs, knowledge and traditions, and which provide them and future generations with a frame of reference." The minister now has the right to designate (and register) as "protected cultural property" all objects and items that are "irreplaceable and indispensable" to Dutch cultural heritage. Traditional criteria of valuing material authenticity and aesthetic quality have been supplemented by cultural criteria. These concern historical uniqueness, the symbolic function of calling to mind important historical events or people, a linking function in a chain of cultural development or transcultural encounter, and a benchmark function for comparative research to other cultural developments, items, and goods.[24] All these criteria will also play a role in this report on the historical interpretation, cultural significance and memory value of the former ICTY, and they will be systematically summarized again in the conclusions and recommendations.

The theoretical background of this new approach is explained in more detail below, but it is worth noting that in many cases the authenticity of the material and the aesthetic quality of the design are no longer sufficient for the valuation of heritage values. In addition to monumental architecture

that can be assessed based on its monumental value, the term 'memorial heritage' (*herinneringserfgoed*) is recently introduced by the RCE and adapted in this report.[25] Thus, it will assess the memorial values of the former ICTY building through site interpretation and through an analysis of its national and international significance. It is therefore important to realize that from a heritage approach, monuments are no longer only assessed on the basis of their intrinsic values (design, materiality), but also based on the extrinsic values attributed to them by their (functional and cultural) users.

This is of course not without consequences for the reuse and redevelopment of monuments. For, on the one hand, more categories are now eligible for protection and funding, while on the other, and despite a heavily weighted government system for the safeguarding and protection of heritage, sites are still at risk of losing irreversible material traces of a sometimes emotionally charged past. In order to know how to deal with such intangible values of sites of memory and "places of significance" and "contested heritage," we need to understand some key perspectives on the biography of sites, focusing on their historical significance, cultural meaning, and heritage and memorial values.

A Cultural Mode of Production

This approach to cultural heritage, as applied within the field of architectural and monumental conservation, can thus be related to a scientific paradigm shift as well as to a policy change in the interpretation, valuation, and safeguarding of cultural heritage.

The first development is seen in architectural history in the emergence of a new approach to "read" architecture, and the city as a *text* – as closely related to the late 20th century cultural and spatial turns in the humanities and social sciences.[26] In this view, works of art and architecture are no longer seen as static but dynamic, like literary texts, or even the "facts" of history as these can never come to us in pure form and can never speak for themselves. The same warning therefore applies in architectural history as the British historian E. H. Carr gave to readers of a historical work: that their primary concern "should lie not with the facts it contains, but with the historian who wrote it."[27] Art and architecture can likewise never be understood as isolated works by autonomous creators. Monuments are cultural artifacts, and knowing who *designed* them and why is likewise just as important as knowing who *used* them and for what. Therefore, the longstanding assumption that the *intrinsic* aesthetic and material values

of architecture can only be read and appreciated by professional experts has given way in recent decades to the recognition of *extrinsic*, intangible values granted by a much larger field of stakeholders. Monuments—whether historic buildings or modern architecture—often influence their immediate and virtual environment through their visual form or representative functions, and therefore also derive meaning from the experiences of users and public opinions.

Moreover, Dana Arnold, arguing against Pevsner, makes the point that "architecture differs from art," because an architectural work cannot be exhibited like a work of art "in different settings, and the subject matter, form, and meaning will remain unchanged." While this might not always be true, Arnold is right that an architectural work, unlike a work of art, is generally not physically moved, but transformed *in situ*. In contrast to its static, immovable impression, though, it "can be *altered over time*" as additions and modifications are made. Moreover, it "can *change in functio*n as it meets different demands of its occupants," and "although the exterior appearance may be unaltered," it is very likely that "its *meaning may change* depending on the nature of the context." It is precisely this contradiction between the external continuity of its stylistic canvas and the evolution of the story that "reveals some of the problems of interpreting historic architecture from a modern-day perspective, as the physical changes and different cultural contexts *transform the object*."[28]

Whatever the architects once had in mind, such draws attention to the cultural dynamics of monuments and their surroundings. Instead of the traditional focus on design, materiality, and authenticity of what the cultural heritage scholar Laurajane Smith calls the "authorized heritage discourse," the focus has shift to their various and changing users and meanings.[29] Ultimately, it is the combined staging, imagining, and interpreting of a building that creates heritage value through the enrichment of its cultural layering. Heritage on its own is worthless. What turns a space into a meaningful place is the gaze of the user, including the neighbor, visitor, and tourist.[30]

Like any historical object and work of art, a monument can therefore be interpreted as a carrier of meanings that may even have gained in significance due to its special status. Casting Pevsner's distinction of function and art in a different light, historian Krzysztof Pomian distinguishes between "things and *semiophores*," the first being useful, the second meaningful. While both kinds of objects might be valuable for their owners, me*aning* for Pomian comes not from an object's design, but from its provenance. This insight came to him through his research into the role of Renaissance collections. Collectors developed a distinctive eye for taste by attributing

aesthetic, scientific, or religious values to natural species or antique objects. For example, what originally had a practical purpose in Athens in the 1st century AD lost its original function over the centuries before becoming the Medici Vase, a highly coveted collector's item in the Uffizi in Florence. The collected object "as such represents the tendency of society to accumulate meaning in the [...] possessions of the few who occupy the heights of the social pyramid."[31] The greater the stratification of a society, the greater the cultural value of its collections. Yet today, this formula is no longer limited to the top of the social pyramid. In modern consumer societies, it refers to all artefacts to which heritage values are attributed by institutions and communities. Although monuments cannot evolve from utensils to collector's items in the same way as works of art, they do undergo a *narrative* displacement, as it were, with each new phase of reuse. In other words, monumental values no longer depend solely on criteria of material authenticity, or their role in the designer's oeuvre or biography.

What adds value, according to the anthropologist Igor Kopytoff, is the commoditization of things in cultural goods. Like Pomian's semiophore, Kopytoff points to the "cultural biography" of an object, and he too takes a painting as an example to explain how it derives value from its life cycle. Kopytoff, however, looks at this layering of meanings from the perspective not of its owners, but of its users: "To us, a biography of a painting by Renoir that ends up in an incinerator is as tragic, in its way, as the biography of a person who ends up murdered. But [...] what of a Renoir ending up in a private and inaccessible collection? [...] The cultural responses to such biographical details reveal a tangled mass of aesthetic, historical, and even political judgments, and of convictions and values that shape our attitudes to objects labeled "art."[32] Biographies of things thus reveal ways of cultural production, ways of signification, through transactions and exchanges, including even outright theft.

However, in addition to their significance and cultural biography, there is another aspect that adds to the value of things. Austrian 19th-century art connoisseur Alois Riegl, in one of his last essays, "The Modern Cult of Monuments" (1903), pointed out the paradox that the modern conservation movement was not so much interested in *intended* monuments that celebrated the greatness of a ruler or nation (and were often destroyed after times had changed), but rather in *historical* monuments, such as houses and churches, which were never intended to become monuments. Riegl sought an explanation in the Romantic drive behind the "cult," and identified it as what he called the "age value" (*Alterswert*). Riegl was thus aware of changing interpretations of historical monuments in public opinion and expert

debate, which he associated with two different approaches, one focused on authenticity as a work of art, the other on ageing as a work of history. While most conservationists were looking for the "original style" of a building, he argued that for a church, for example, this might mean removing the Gothic portal and restoring the original Romanesque ruin—which was still a common practice in restoration practices until long into the 20th century. Unlike most conservationists, Riegl therefore considered restoration the most dangerous disruption to a monument's function as an expression of "the passage of time." Key to a monument's value was the preservation of its cultural biography, as we would now say—a strikingly modern approach to historical authenticity that would eventually become a guiding principle of the Venice Charter (1964).[33]

Such a heritage cycle is thus essentially a generational process. Virtually all the items we surround ourselves with are at risk of being discarded as waste before being revalued and collected as "vintage," "antiques," "art," or "monuments." This applies not only to luxury goods, but also to consumer goods and our living spaces: houses and neighborhoods, as will be shown in the following chapter. All these risks of being considered worthless by succeeding generations, until what remains has the chance to benefit from the law of scarcity. This cultural dynamic of things was described years ago with Michael Thompson's "rubbish theory." Inspired by the rapid changes around him in 1970s London, Thompson came to understand that the economic theories he was teaching at University College London were powerless to explain them. Where postwar city planners long considered urban renewal the best path to economic development, what happened was precisely the opposite. Former "rat-infested slums" turned into "glorious heritage" and became the most sought-after residential areas—a gentrification without which all such now historic areas would have evolved from a transient category of old-fashionedness into rubbish.[34] So, Thompson too discovered Riegl's "age value," although without an aversion to restoration. A growing scarcity of built heritage after large-scale urban reconstructions then turned conventional theories of value upside down. Inexplicably, according to economic models of the "expected lifespan" of real estate, restored houses began a second life as *heritage* with unexpected economic benefits for the few remaining in the former slums and ruinous city centers. If the conservation movement arose out of the fear of the loss of old cityscapes, the rising value of obsolescence at the birth of the late 20th century heritage movement would turn historic cities and old city districts into the most beloved and precious residential destinations.

However, gentrification also soon found its critics. It was in Margaret Thatcher's Britain of the 1980s that a once glorious industrial nation had

to give way to what historian Robert Hewison has disparagingly called the "heritage industry," as a variant of Adorno and Horkheimer's "culture industry." What he and others lamented was the commodification of the past as nostalgic "bogus history" for tourist entertainment, as practiced in heritage museums and the conserved country houses of the National Trust and English Heritage. This, he argued, produced a widespread sanitized version of the past, symbolic of "a Britain in decline."[35]

Such criticisms, however, are today considered far too intellectually simplistic. Heritage was not a reactionary product of Thatcherism. Nor was nostalgia intrinsically conservative, and nor did it turn the country into a gigantic museum. While such opinions still influence political desires for market regulation, critical heritage scholars Gregory Ashworth and Peter Howard, like Thompson before them, insisted that gentrification should be considered "a process that must be accepted from the start"—for the price mechanism will take over any attempts to counter it, "and someone will have to pay for restoration and maintenance."[36] In the heritage debate of the 1980s and 1990s in Britain, it was Raphael Samuel who most strongly opposed the premise of falsification (of history and authenticity) that most of his fellow radical historians embraced. Samuel pointed to the democratizing and transformative potential of heritage, which even in the case of country house tourism did, after all, open up gazes to "life below stairs." Heritage was thus a dynamic process that pluralized the past rather than mummifying it.[37]

As Smith notes, the "totalizing critique of the literature on the 'heritage industry' is itself problematic", because "by identifying all heritage as either elitist and/or commercially inspired pastiche, little conceptual room is made for alternative uses of heritage."[38] For visitors have agency, and not all "read" scripts in the same way, or in the way modern heritage designers or a former generation of "directors of national memory" intended.[39] The main problem of heritage, according to John Urry and Jonas Larsen, is that "it is visual," an "artifactual history" in which it is hard to see a storyline. Yet, these "themed spaces" attract many visitors, just as there is also "often considerable local support for conserving buildings as markers of place."[40] Moreover, heritage is not only compared to an industry, but real industry is also compared to heritage because it uses cultural stories and images to "package" its products for a user experience. While historians have criticized the heritage industry for a lack of historical authenticity, the appeal of heritage to visitors lies precisely in the place-based "staged authenticity" of sightseeing.[41] Herein also lies a strong similarity with what Pine and Gilmore call the power of the new "experience economy," which, driven by the consumer's desire for authenticity, turns everything into culture and all cultural products into

"brands."[42] Like the world of consumer goods, the fabrication of heritage and authenticity derives its meaning today from the prodigious ability to create new values out of culture and traditions.[43] This performative power of heritage is described by Barbara Kirshenblatt-Gimblett as a "cultural mode of production." While looking old, heritage is brand new. By experiencing "hereness" (the state of being here in this place), heritage not only *shows*, but also *does*. It creates meaning by transforming "a location into a destination."[44]

Authenticity, then, is not real, or fake, but hyperreal, a simulacrum of real, natural authenticity advertised in a fabricated hypermarket.[45] While one can agree with cultural philosopher René Boomkens that such "postmodernism is modernism with a better advertising agency,"[46] the selling of products has changed from a producer-oriented marketing of material goods into a user-centered management of cultural expectations. The endless appearance of urban experiences, diversity, and complexity has contributed, not to Hewison's declining industry, but to the decline of modernity's belief in control. Instead of the former fixed walls between high and low, countryside and city, tradition and modernity, people are experiencing weak boundaries and a sense of "in-betweenness" in modern "network cities" in which the old hatred of the city has been bought off in the new suburbs with a love for the urbanity of the monumentalized downtown. Just as the internet has come to connect networks and spaces, so have people begun to explore their environments independent of expert knowledge. Searching for relief in "scattered attention" has created a way to cope with the ongoing crises of the world, which now seem manageable even without the theoretical or technical knowledge to fully understand them.[47]

Europe's well-preserved cities, as the urban sociologist Gregory Ashworth noted, are therefore not only the result of elitist collecting and building traditions, but also of contemporary users' "readings" of their hometown as a layered, symbolic text. In this urban palimpsest, the historical and spatial stratification would be just as completely disrupted by massive modern office buildings and residential blocks as monuments would be by total restorations.[48] Moving between the poles of fake and real, the *cultural turn* and the closely related material and spatial turns have thus fundamentally changed the agenda of both users and designers of public spaces.[49] These rising expectations in a consumer society then have consequences for older, and still existing policies of control. Ashworth distinguishes three often conflicting, though inherently concurrent paradigms in the managing of historic sites and places, namely *preservation*, which has led to rigorous public frameworks and financial subsidy systems for the protection of historic sites against harm and neglect, secondly, *conservation*, as the valuation of preserved

sites and "ensembles" by both intrinsic and extrinsic criteria of forms and functions, and finally, *heritage*. Rather than an umbrella term for almost anything inherited from the past like, as he puts it, the "ever-lengthening lists of protected buildings and areas" of "the older, functionally inadequate and philosophically bankrupt preservation approach," he signals the increasing importance of heritage as an approach to a commodified past driven by demand rather than supply. On the supply side of heritage, property managers and government agencies would therefore do well to be aware of this. For, the "increasingly felt needs of people, whether political, social, psychological, or economic" will have a growing impact on the decision-making processes for the "financial, political, and ethical support" needed for their projects."[50]

In such network cities, the staging of spectacular realities by means of imagination and visualization has become key to contemporary architecture. However, still dominated by its authorized heritage discourse, the traditional institutionalized heritage *field* has not paid much attention to such "consumption of places" in heritage *practices*.[51] Even more, due to the increasing importance of images and the participation of the empowered citizen, the role of the architect and architecture bureau in large-scale construction processes has completely changed. According to architectural historian Koos Bosma, single designs are rarely executed now, and what we see is only the tip of an iceberg formed from an amalgam of ideas and plans, of which the architect is, at most, the orchestrator. "The independent value and authenticity of material objects, ensembles, landscapes, and settlements" therefore only exists in traditional heritage care. The most visible role of architecture, on the other hand, lies in the media, but there it is "often understood as a time-bound social construction, which allows for all kinds of variants and offers very subjective experiences to human beings." Still, the fact that such mediatized images have a strong impact on material transformation processes requires much more critical reflection and the development of a much-needed assessment framework.[52] It is also a major challenge for this report.

Notes

1. Emir Suljagić, *Terug naar Srebrenica. Een landkaart van het verdwijnen* (Amsterdam: Arbeiderspers, 2022), 30. The author, a survivor of the genocide in Srebrenica and currently director of the Srebrenica Memorial Center, reflects on his presence at the Hague trial of Dragan Nikolić in November 2003.
2. Nikolas Pevsner, *An Outline of European Architecture* (Harmondsworth: Penguin 6th ed. 1960 / 1st Pelican ed. 1941), 7. The work attained the status

of the world's most influential textbook on architecture in 1960 with Allen Lane's extensively illustrated Jubilee Ed. 1960.

3. Cf. Auke van der Woud, *Waarheid en karakter. Het debat over de bouwkunst 1840-1900* (Rotterdam: NAi, 1997); van der Woud, *Sterrenstof. Honderd jaar mythologie in de Nederlandse architectuur* (Rotterdam: NAi, 2008).
4. Koninklijke Nederlandse Akademie van Wetenschappen, *Wankele Sokkels: Omstreden Monumenten in de Openbare Ruimte*. (Amsterdam: KNAW, 2023), 76-83, URL: https://www.knaw.nl/nl/publicaties/wankele-sokkels-omstreden-monumenten-de-openbare-ruimte (Accessed October 10, 2024).
5. Annet Mooij, "Stenen des aanstoots," Advies Raad voor Cultuur. Commissie monumentaal erfgoed WOII, annex 4 (July 5, 2004), 19, and Mooij, "Stenen des aanstoots: omgang met omstreden erfgoed," in: ICODO-info, 21 (2004) 2, 40-54.
6. Cf. Susan A. Crane, *Collecting and Historical Consciousness in Early Nineteenth-Century Germany* (Ithaca/London, 2000); Rob van der Laarse, "Erfgoed en de constructie van vroeger," in Van der Laarse, ed. *Bezeten van vroeger. Erfgoed, Identiteit en Musealisering* (Amsterdam: Het Spinhuis, 2005) 1-28, esp. 10-13.
7. David Lowenthal, "Nostalgia tells it like it wasn't," in: Christopher Shaw and Malcolm Chas, eds. *The Imagined Past: History and Nostalgia* (Manchester UP, 1989), 18-32; David Lowenthal, *The Heritage Crusade and the Spoils of History* (London/New York: Viking 1996); Niels Gutschow, *Ordnungswahn. Architekten planen im "eingedeutschten Osten"* 1939-1945 (Berlin: Bertelsmann 2001).
8. Cf. Benedict Anderson, *Imagined Communities. Reflections on the Origin and Spread of Nationalism* (Verso, 1983, rev.ed. 2016); Eric Hobsbawm and Terence Ranger, eds. *The Invention of Tradition* (Cambridge UP, 1983); David Lowenthal, "Fabrication Heritage," *History and Memory*, 10 (1998) 1, 5-24; Carol Duncan, *Civilizing Rituals inside Public Art Museums* (London-New York: Routledge 1995).
9. Laurajane Smith, *Uses of Heritage* (London-New York: Routledge 2006), 23; John Lennon and Malcolm Foley, *Dark Tourism. The Attraction of Death and Disaster* (London-New York: Continuum 2000).
10. "Camp Westerbork, the Netherlands," *Culture and Creativity, European Commission*, URL: https://culture.ec.europa.eu/cultural-heritage/initiatives-and-success-stories/european-heritage-label/european-heritage-label-sites/camp-westerbork-the-netherlands (Accessed October 3, 2024).
11. Tonie Mudde, "Eerst het strand, dan het massagraf. Plekken van dood en verderf zijn populair weet Philip Stone. De Brit is directeur van een onderzoeksinstituut naar duister toerisme," *De Volkskrant*, May 25, 2013, V5.
12. Sarah Kuta, "Walk Through a Full-Scale Replica of the Secret Annex Where Anne Frank's Family Took Shelter During the Holocaust," *Smithsonian Magazine*, October 22, 2024, URL: https://www.smithsonianmag.com/smart-news/walk-through-a-full-scale- replica-of-the-secret-annex-where-anne-franks-family-took-shelter-during-the-holocaust- 180985292/ (Accessed

October 24, 2024), and cf. Rob van der Laarse, *De oorlog als beleving. Over de musealisering en enscenering van Holocaust-erfgoed*. Reinwardt Memorial Lecture (Amsterdam: Reinwardt Academie 2010/2011) 20-31.

13. David Cannadine, "The Context, performance and meaning of ritual; the British monarchy and the Invention of Tradition," c. 1820-1977," in Hobsbawm and Ranger, *Invention of Tradition*, 101-164, pp 104-5. Also, compare the continued ritual of creating attention to endangered and saved monuments in the oldest Dutch public heritage journal: "Bedreigd erfgoed," *Erfgoedverening Heemschut*, URL: https://www.heemschut.nl/nieuws/bedreigd-erfgoed/ (Accessed September 2, 2024).
14. Andreas Huyssen, "Monument and Memory in Postmodern Age," in: James E. Young, ed. *The Art of Memory. Holocaust Memorials in History* (New York-Munich: Prestel 1994), 9-17, esp. 9.
15. Fons Asselbergs, *Niets is zo veranderlijk als een monument. Een pleidooi voor een cultureel argument*. Inaugurele rede RU Nijmegen (Zwolle: Waanders, 2000).
16. "Zorg voor onroerend erfgoed," *Rijksdienst voor het Cultureel Erfgoed*, Min. OCW, URL: https://www.rijksoverheid.nl/onderwerpen/erfgoed/zorg-voor-cultureel-erfgoed/zorg-voor-onroerend-erfgoed# (Accessed May 2, 2025).
17. "Monumenten," *Rijksdienst voor het Cultureel Erfgoed*, Min. OCW, URL: https://www.cultureelerfgoed.nl/domeinen/monumenten (Accessed September 2, 2024);"Eenheid en verscheidenheid (achtergronddocument 2014)," *Rijksdienst voor het Cultureel Erfgoed*, Min. OCW, URL: https://www.cultureelerfgoed.nl/publicaties/publicaties/2014/01/01/eenheid-en-verscheidenheid-achtergronddocument (Accessed September 2, 2024).
18. "Erfgoed van de moderne tijd," *Rijksdienst voor Cultureel Erfgoed*. Min. OCW, URL: https://www.cultureelerfgoed.nl/onderwerpen/erfgoed-van-de-moderne-tijd (Accessed September 2, 2024).
19. "Monumenten," *Rijksdienst voor het Cultureel Erfgoed*, Min. OCW, URL: https://www.cultureelerfgoed.nl/domeinen/monumenten (Accessed September 2, 2024);"Eenheid en verscheidenheid (achtergronddocument 2014)," *Rijksdienst voor het Cultureel Erfgoed*, Min. OCW, URL: https://www.cultureelerfgoed.nl/publicaties/publicaties/2014/01/01/eenheid-en-verscheidenheid-achtergronddocument (Accessed September 2, 2024).
20. "Oorlogsmonumenten," *Nationaal Comité 4 en 5 mei*, URL: https://www.4en5mei.nl/oorlogsmonumenten (Accessed October 10, 2024); Rob van Ginkel, *Rondom de stilte. Herdenkingscultuur in Nederland* (Amsterdam: Bert Bakker 2011) 41-172.
21. Cf. Frank van Vree & Rob van der Laarse, eds. *De dynamiek van de herinnering. Nederland en de Tweede Wereldoorlog in een internationale context* (Amsterdam: Bert Bakker 2009); Rob van der Laarse, *Nooit meer Auschwitz? Erfgoed van de oorlog na Europa's eeuw van de kampen* (Inaugural Vrije Universiteit Amsterdam, Hooghalen: Herinneringscentrum Westerbork,

2013); Roel Hijink, *Voormalige concentratiekampen. De monumentalisering van de Duitse kampen in Nederland* (Hilversum: Verloren 2011); Iris van Ooijen, *Kampen als betwist bezit. De hedendaagse omgang met de voormalige kampen Westerbork, Vught en Amersfoort als herdenkingsplek, herinneringsplaats en erfgoedsite* (Soest: Aspekt 2018).

22. For example, the National Monument Camp Amersfoort was opened as a memorial site in 2004, and redesigned by Inbo Architects: Jacques Prins, Max Meijer, and Floris van Dijk, *De betekenis van een plek* (Rotterdam: Nai 2021), and, after being demolished as a Moluccan camp around 1970, Camp Westerbork was redesigned as Memorial Camp Westerbork in 1992, whereas a new masterplan Westerbork in ensemble was developed with Grontmij in 2011, and currently with Mecanoo, RYSE and Kossmanndjejong: Simon de Jong, "Kamp Westerbork – de toekomst van beladen geschiedenis", RYSE, https://www.ryse.nl/actueel/kamp-westerbork-de-toekomst-van-beladen-geschiedenis . (Accessed October 17, 2024).
23. See Francisco Veenstra, "Toekomst Unit 1 PI Vught en bredere visie op beladen erfgoed," *Atelier Rijksbouwmeester* (Rijksvastgoedbedrijf, Min. BZK, September 6, 2023); "Pleidooi voor behoud bunker aangenomen," *Nationaal Monument Kamp Vught*, URL: https://www.nmkampvught.nl/bezoeken/actueel/nieuws/2024/05/pleidooi-behoud-bunker-aangenomen/ (Accessed September 2, 2024).
24. "Erfgoedwet," *Wettenbank* (Overheid.nl), Chapters 1-3, URL: https://wetten.overheid.nl/BWBR0037521/2024-01- 01#Hoofdstuk3 (Accessed September 2, 2024).
25. "Verkenning herinneringserfgoed," *Rijksdienst Cultureel Erfgoed*, Min. OCW, URL: https://www.cultureelerfgoed.nl/publicaties/publicaties/2019/01/01/erfgoed-van-betekenis ; "Beladen erfgoed. Een ander licht op onze geschiedenis." *Tijdschrift van de Rijksdienst van Cultureel Erfgoed*. 1 (2019), 4-7.
26. Doris Bachmann-Medick, *Cultural Turns. Neuorientierungen in den Kulturwissenschaften* (Reinbeck: Rowohlt, 2006).
27. E.H. Carr, *What is History?* (Harmondsworth: Penguin 1961) 22.
28. Dana Arnold, *Reading Architectural History* (London-New York: Routledge 2002), 7. Italics made for this report.
29. Smith, *Uses of Heritage*, 29.
30. John Urry, *The Tourist Gaze. Second Edition* (Los Angeles-London etc.: Sage 2002, orig. 1990); R. van der Laarse, "Erfgoed en de constructie van vroeger," 8-9.
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35. Robert Hewison, *The Heritage Industry. Britain in a Climate of Decline* (London: Methuen 1987), and see also Patrick Wright, *On living in an Old Country. The National Past in Contemporary Britain* (London, 1985) and, for a later literary echo, Julian Barnes, *England, England* (London, 1998).
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39. Ad de Jong, *De dirigenten van de herinnering. Musealisering en nationalisering van de volkscultuur in Nederland 1815-1940* (Nijmegen: SUN, 2001).
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41. Dean MacCannell, "Staged Authenticity Today," in: MacCannell, *The Ethics of Sightseeing* (Berkeley-Los Angeles- London: University of California Press, 2011), 13-40.
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45. Jean Baudrillard, *Simulacra and Simulation* (Paris 1981, Michigan UP, 1994).
46. René Boomkens, *Een drempelwereld. Moderne ervaring en stedelijke openbaarheid* (Rotterdam: NAi, 1998), 410.
47. Boomkens, *Een drempelwereld*, 406, and 407-409.
48. G. J. Ashworth, "The conserved European city as a cultural symbol: the meaning of the text," in: Brian Graham, Ed. *Modern Europe. Place, Culture, Identity* (London 1998), 261-286.
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50. G.J. Ashworth, "Heritage and the Consumption of Places," in: R. van der Laarse, *Bezeten van vroeger*, 193-206, esp. 194-5.
51. John Urry, *Consuming Places* (London 1995).
52. Koos Bosma, *Tent en piramide. Architectuurgeschiedenis en—kritiek na 1970* (Rotterdam: 010, 2011), 16, 51. 2024.

Chapter Two: In the Neighborhood: What's in a Place?

Abstract: This chapter shows how the location of the former Yugoslavia tribunal has become part of the urban fabric of The Hague. It interprets the city as a "dynamic archive" of memories and visions of the future with different meanings for residents and urban planners, and thus a space full of dissonances. To gain insight into the post-war debates between modernist urban planners and residents about the urban planning of the heavily war-damaged Zorgvliet-World Forum area—the current district of the International Criminal Tribunal for the former Yugoslavia—a comparison is made with the German reconstruction debates from 1945 to after the Wende of 1989. From this comparative context, it becomes clear how much urban planning and monument conservation revolved around a 'romantic modernist' belief in material authenticity and building. It highlights the impact of the recent 'heritage turn' in Dutch spatial policy, which breaks with a long tradition of top-down urban planning. The new heritage policy promotes citizen participation in favor of resilient, adaptive reuse of historic architecture. This opens up future-oriented possibilities for a redevelopment of the surroundings of the former Yugoslavia tribunal, which with its arrival itself became a key to the development of what is known as the 'International Zone'. In order to assess several initiatives to improve the quality of life in the "deserted" area, which removed from the city is increasingly focused on heterogeneous, introverted high-rise offices, a comparison is made with the new urban renewal plan for the Brussels 'European district'. The chapter ends with a reflection on the question of how the protection of the commemorative values of the former Yugoslavia tribunal can contribute to strengthening the urban identity of The Hague as an international beacon for peace and justice.

Laarse, Rob van der, Charles Jeurgens, Sabina Tanović. *The Former "Yugoslavia Tribunal" as Monument of Justice: History, Heritage and Memory of the ICTY and IRMCT in the City of Peace and Justice*. Amsterdam: Amsterdam University Press, 2025.
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Interpreting Heritage

While reflecting in his *Invisible Cities* (1974) on Marco Polo's travelogue of his journey through Asia along the Silk Road around 1300, Italo Calvino noticed that his compatriot portrayed the unknown cities he visited based on their past, by drawing on their residents' local memories of events related to spatial signs and traces. As Calvino points out, "the city [...] does not tell its past, but contains it, like the lines of a hand, written in the corners of the streets, the gratings of the windows, the banisters of the steps, the antennae of the lightning rods, the poles of the flags, every segment marked in turn with scratches, indentations, scrolls."[1] Above all, the problem of urban heritage is one of change and hybridity. "If we accept architecture as a cultural artifact, then we must also see its histories as a text open to a variety of readings," writes architectural historian Dana Arnold, who thereby links the role of a town or building as a layered text to the problem of cultural pluralism.[2] After all, texts can be read differently by different readers with different preferences, but also as a narrative assemblage of motifs and storylines that nestle in the reader's mind in different ways as symbolic signs or signals.

As with Riegl's principles of art and conservation, we must distinguish between the periods in which the texts of things, or cities, were written and the periods in which they were read. Just as unintentional buildings turn into monuments, so the messages and meanings of texts can change when they are communicated and consumed in later times when it becomes difficult to understand for what and for whom they were produced. It follows that buildings, like texts, cannot simply be understood as an embodiment of "their time," because they too will circulate in other times and environments, constantly reinterpreted and reappreciated. "The process of locating 'the text' in its proper contexts," Arnold writes, is therefore "not merely to provide a historiography, it is to begin the process of interpretation."[3]

Because of such dynamics and plurality, the history of a building, or any artifact for that matter, can never be understood simply as a unique creation of a single author. The myth of "great events," "grand designs," and "great men" conceals many motives and activities of many actors who have contributed to it. The Italian "micro-historian" Carlo Ginzburg accordingly believes that the process of interpretation can best be understood as a "methodological detour." He refers to the Italian 19th-century art connoisseur Giovanni Morelli, who, like a detective or psychiatrist, searched for "clues" to the identity of a painter by studying barely perceptible details of his "handwriting," because these are the most difficult for forgers to imitate.[4] 97 What works for paintings also works for heritage sites. A careful

interpretation—in the form of a narrative and material site analysis—often yields new information that refutes accepted models and ideas standing in the way of careful examination of clues as to how sites are "read," and by whom and why. As in modem museums, this script is no longer written by a single author but involves many stakeholders. After all, heritage cannot speak for itself, and it is here that we must look for the cultural production of meanings. For, as the American conservationist Freeman Tilden noted among the main principles of interpretation in his *Interpreting Our Heritage* (1957), the significance of sites can only be fully understood by visiting them. To interpret them, it is not enough to be well informed. You must experience them personally, because the key to the "art of interpretation" is not being taught but being provoked and learning to look at things differently.[5]

Paraphrasing scholar of communicative memory Aleida Assmann, heritage and memory thus approach the past not as a static collection of material and intangible sources, but as a dynamic archive. Every generation, and every kind of user, develops new canons of remembering and forgetting, which open multiple perspectives as changing selections embodied in collective memories, historical works, museums, media, public space, and architecture.[6] In 19th-century Germany, for example, the conservation movement was heavily influenced by John Ruskin, the English conservationist who departed from the established neoclassical cult of beauty in developing a new approach to the interpretation of heritage, for which "the highest value of a building was not its stones and precious materials, but its historical testimony to human life, creation, and suffering."[7] This new way of experiencing the ruins of the past also manifested itself in alarmist artists' circles that turned against the late 19th-century "Hausmannian" urban renewal plans, seeing them as a threat to organically developed historic "harmonious cities."[8] But, as Assmann notes, in post-war Germany the early 20th-century fascist *völkisch* embrace of the picturesque gave way to a purist, modernist postulate of "historical authenticity" in monument conservation. The new credo was a positivist analysis and appreciation of "material substance for its own sake."[9] Armed against any form of populist abuse, the disturbance or removal of tangible historical traces was (and is) therefore regarded as a degradation of material and immaterial information, and thus an impoverishment of the cultural value of a monument as a historical artefact. However, the reconstruction of a site in its former form was considered not only a violation of its historicity, but also a reactionary violation of the modern social order. The call for historical reconstructions of historic buildings or cityscapes by the War was therefore no less than a modernist taboo.

Interestingly, architectural historian Wim Denslagen aptly speaks of "romantic modernism," because this shibboleth of authenticity requiring building to be in accordance with the *Zeitgeist* is still rooted in the 19th-century postulate of German philosophical historicism. He even goes so far as to suggest that it may have saddled citizens with a loss of identity, not to mention a distrust of authorized heritage policy. For not only did it imply that modern building should accord with the Weimar-German art principles of New Objectivity (*Neue Sachlichkeit*), it also opened the way for the large-scale redevelopment of dilapidated historic city districts without regard for the past. However, its origins went back to the pre-war period.. The same myth of artists as visionaries of their time, who designed in accordance with the modernist zeitgeist and regarded everything else as 'a falsification of history', prevailed equally in the Dutch architectural world and in monument conservation, according to Denslagen.[10] Thus, Jan Kalff's early 20th-century modernist principle that "conservation takes precedence over restoration" dominated Dutch monument conservation until the end of the century as a warning, in Riegl's spirit, that "restoration is the most complete destruction a building can undergo [...] with a forgery as a necessary consequence."[11]

The fact that, according to these principles, the demolition of slums and the repair of war damage often blindly purged many old cities of hundreds of monuments and entire historic districts that could no longer be saved by modernist standards, therefore delivers a complex message. During the postwar reconstruction in the Netherlands (1945-1965), this loss of built heritage and rural landscapes was at best lamented in nostalgic booklets with local historical photographs, the documented sources of which have only recently aroused more professional interest.[12] However, precisely because urban planners' renovation of historic cities in the post-war reconstruction period was so successful, the law of scarcity brought monument conservation back into the spotlight. Thanks to the 'heritage turn', the remaining centuries-old slums, many of which had made way for monotonous new construction after the war, would be regarded a few decades later as the most prestigious urban neighborhoods for residents and entrepreneurs. It was precisely because of their "aging value" that they now outdid the most modern districts.

For a variety of reasons, planners, academics and political advisory committees around the year 2000 showed a growing dissatisfaction with the modernist urban renewal programmes of the 1950s and the functionalist separation of work and life. In many countries this led to a new interest in studies of modern cities as places of meaning and collective memory, and in the importance of 'building lives', the reuse of buildings long after their

completion. Instead of isolated architectural approaches to buildings and urban planning designs, more attention was paid to the connection of buildings to their immediate surroundings and their visual and symbolic significance for townscapes and neighborhoods.[13] For after decades of standardization and functional segregation, this post-war urban policy had reached its physical and economic limits, especially at the micro level of neighborhoods where 'dead' office spaces and 'ugly' industrial 'parks' were regarded as an encroachment on the living environment by more and more residents and visitors, but also by urban sociologists, cultural critics and politicians.

Just as Thompson noted of Britain at the end of the 20th century[14], market forces and a growing public aversion to modernist high-rise buildings and row houses sparked a growing interest in heritage restoration and the saving of old houses in the Netherlands too. This led to a shift in Dutch government policy in favor of public-private partnerships based on a user-centered heritage approach. Under the motto "preservation through development," the relationship between spatial transformation and historical identity, somewhat confusingly (in the eyes of professional historians) referred to as "cultural history" (*cultuurgeschiedenis*), became key to large urban development projects.[15] In the interests of a better living environment and more cohesion, experts called for a "strengthening of the organization of citizens and the self-organizing capacity of society."[16] Remarkably, the idea of reusing existing buildings had actually been self-evident in the Dutch canal cities for centuries. Where many post-war reconstruction plans resulted in vulnerable 'problem areas', the old inner cities as well as the 19th century working class neighborhoods were fast growing in popularity among residents, expats, and real estate agents. Although faced with new problems of rising housing prices, of all urban development projects, historic-tourist cities had proven to be the most sustainable thanks to their abundance of features and attractions, and thanks to the protected cityscapes often imposed by local monument committees in response to impending demolition and new construction. 'Built for eternity', like the 17th-century canal belt of Amsterdam, they derive their meaning from the micro-histories of neighborhoods, the wide variety of non-uniform houses from all kinds of construction periods and, as noted, the authenticity experienced by their residents and visitors.[17]

Urban Dynamics and Contested Space

Although architectural modernism during the post-war reconstruction period in the Netherlands is mainly discussed in neutral terms as a progressive

functionalist break, rooted in the *De Stijl* movement of the 1920s, with the "ugly" imitative styles of 19th-century historicism, little attention has been paid to the mental or ideological climate of the *Nieuwe Bouwen* movement of the 1950s.[18] Whereas before World War II there were only a few modernist projects, in a period when most architecture was still traditional or at most neoclassical, modernism after 1945 achieved a national breakthrough through its leading role in large-scale urban reconstructions and renovations of war-damaged, or simply "old-fashioned" cities. Therefore, to better understand the mental and ideological background of modernist architecture, it is useful to take note of the more recent German architectural debate.

Before World War II, the ties between Dutch and German modernism, *De Stijl* and *Bauhaus*, were close, as was the case with Le Corbusier's Swiss modernist ideal of the planned and standardized "functional city" that was the theme of the *Fourth Congrès International d'Architecture* (CIAM) in 1933. The web of relationships before, during, and after the war was complex, as progressive German-Jewish emigrants in the U.S. propagated CIAM principles that in the form of high-rise buildings would dominate the "great American cities" as global symbols of post-war capitalism, while Le Corbusier—whose purist drawings have been noted that "people are always absent or insignificant [because] they were not [his] primary concern"—was increasingly attracted to fascism.[19] After the war, Le Corbusier's Athens Charter of 1933 was applied, however, in a much more social way by progressive reconstruction architects such as the Rotterdam socialist architect Jaap Bakema, who was also the last chairman of the CIAM until its dissolution in 1959.[20] Although his *Nieuwe Bouwen* has unfairly acquired a more technocratic and pragmatically functionalist image than the German *Neue Sachlichkeit*, the two continued even after the war to share the same agenda of a reckoning with the Nazi past, albeit in fierce competition with communist ideals of 'functional cities'—which ironically had been designed in the Soviet Union by Bakema's teacher Mart Stam before the war.

Partly because of the controversial Allied bombings, however, urban reconstructions in Germany have provoked much more public debate than elsewhere. Although after 1945, most city dwellers wanted "their" old cities restored, this met with fierce opposition from modernist architects and designers. More than in the Netherlands, emotional confrontations arose throughout Germany between urban planners and public activists. Proponents of modernist renovation accused the latter of propagating a "false past" with nostalgic pleas for restoration using pre-war reference images (*Erscheinungsbilder*).[21] Such antagonistic visions actually closely resembled the modernist purge of figurative art in the German art world during the

Cold War, as anything outside the new western canon of abstract art was canceled as contaminated by Nazism.[22] This was also echoed in the early post-war Netherlands, where the battle between abstract and figurative art was likewise associated with the victory of progress and liberty over fascist collaboration.[23] But in Germany, such campaigns for cultural purity had a much deeper impact on the world of art and architecture, and they continued even after German reunification in 1989.

Thus, the director of the Deutsches Architekturmuseum in Frankfurt am Main, Ingeborg Flagge, protested furiously against the reconstruction campaign in the eastern German city of Dresden in 2000, and expressed shock at what she saw as the misconceived idea of restoring the historic Frauenkirche district based on prewar maps and city photographs. Ignoring the collective memory of the destruction of the city in 1945, she said, "I live in the present; I must design the current city, to create something of our time. Architecture is always the expression of the will to future [*Zukunftwille*]."[24] While this aversion to nostalgia and false authenticity is very reminiscent of the British radical critique of the heritage industry (which in turn was influenced by the cultural critique of the German Frankfurt School), such a rigid denial of the emotions and wishes of residents may surprise. Behind this architectural debate, though, a traumatic war of remembrance was raging over how to deal with a difficult past. In the wake of the break with Nazi art and patrimonial *Heimat* architecture, modernism then became tantamount to *Staatsräson* for the Federal Republic of Germany.[25]

A remarkable consequence of this rigid, moral approach to material authenticity is that, in addition to purist restorations of historic cityscapes and castles damaged by the war (such as Nuremberg Castle, as recently as 1981), current German urban heritage policy also includes 'modernist' reconstruction architecture, which is also protected as an expression of the *Zeitgeist*. For, according to experts, the alternative—reconstructing material traces of former cityscapes lost through war damage (or through modernist renovation!)—would amount to a falsification of history. The post- war "new cities," in other words, were as much a representation of the spirit of times as the historical cities they had replaced. "False consciousness," the aversion to modernism, should therefore be combated with an absolute taboo on postcard nostalgia, the fatal attraction of which was firmly diagnosed as a legacy of the Third Reich.[26] A high-profile exception to this, however, was the Palace of the Republic of the former GDR, dating from the 1970s and built on the castle site of the war-damaged Hohenzollern Palace in central Berlin. In the united Germany, after years of debate, this symbol of communist modernism had to make way for a nostalgic copy of the former

imperial residence in 17th-century Baroque style at the beginning of the 21st century – under the less controversial name Humboldt Forum.

What was 'forgotten' or erased during this period was not only the communist modernist legacy, however, but also that of the Third Reich. For, especially in the form of 'stripped classicism', modernism after the Weimar period was already deeply rooted in Nazi architecture.[27] In fact, Hitler and Speer viewed the Allied bombing as a blessing in disguise that provided them with a unique opportunity to rebuild most of Germany's historic cities according to the principles of Nazi reconstruction as modern, motorized network cities—a scheme accomplished after the war by their former urban planning staff.[28] This, in turn, touches on a deeper layer of the reconstruction debate between *Wessies* and *Ossies* ("Western" and "Eastern" Germans) in a Germany still not culturally unified after the fall of the Berlin Wall.[29]

Above all, these cases show the sensitive nature of architecture in public space, and unforeseen competing interests and views in dealing with transformations of heritage sites. Without debate, however, heritage is meaningless, because it is ultimately appreciated by the users. Controversy is therefore inherent to any transformation of a heritage site, because heritage values are generally multiple, as heritage often has multiple users and the outcome is determined by the interactions of many asymmetrical legal, political and symbolic appropriations. While heritage managers tend to focus on supposedly neutral, objective, and measurable criteria of material soundness, the status of the designer, and programs of requirements cast in the language of an "authorized heritage discourse" with strict, official, and guidelines and definitions of intrinsic authenticity and measurable quality, the societal significance of heritage is often determined by the uncertain outcome of negotiations between legal owners, political decision-makers, opinion makers, heritage conservationists, residents and many other interest groups and remembrance groups.[30] The value of a place is therefore strongly influenced by competing property claims. "Such dispersed groups are particularly easy to overlook," as Ashworth and Howard write: "Consequently, heritage is always dissonant in ways that may be serious or trivial, and that affect few or many people [...]. Every building that is maintained has objectors and every interpretation is tendentious and biased to a certain extent."[31]

However, such values stem not only from top-down mandated discourses, or a set of principles established by experts, but rather—and above all—from friction with other narratives and stakeholders that breaks down existing hierarchies of taste and identity. Heritage has multiple legal, economic, political, and cultural owners, and its values are therefore inherently dynamic.

Heritage dissonances thus arise not only from memory conflicts, but also from different interpretations and appreciations of monuments and other material heritage sites and artifacts, as when notions of authenticity and identity, or monumental and memorial values, clash. For, heritage is both an economic and a cultural asset. Some critical sociologists have therefore warned against the "main failure in cultural theory" of ignoring the "fundamental economic-cultural dichotomy and valorize the latter at the expense of the absolute elimination of the former."[32] However, these *are* actually closely intertwined, as evidenced by the cultural significance of "the real thing" or "the authentic place" that plays such an important role in the postmodern experience economy. Not only has authenticity become a hallmark of a whole range of consumer goods, it has also gentrified entire slums into a business case, while sites and artifacts have become appropriated as identity markers. In accord with a recent Dutch policy exploration it is safe to say that heritage ultimately derives its value from—and for—those who find it meaningful for nostalgic, artistic or traumatic reasons, and thus cannot be separated from the broader memory culture.[33]

In light of this shift from authorized to inclusive heritage, the focus in heritage management must, as Tunbridge and Ashworth proclaimed thirty years ago, "shift from the use of heritage to the users themselves, and thus from the 'producers' (whether cultural institutions, governments, or enterprises) to the 'consumers.'"[34] But while this dynamic inclusive heritage discourse is now widely propagated in heritage theory, international treaties and national legislation, such citizen or community participation is in *practice* still often ignored because of the intricate management of dissonant voices. As Višnja Kisić noted, "if we acknowledge the multiplicity of interpretations and interests in heritage," and "if participation should encourage the expression and negotiation of diverse meanings and interests, it is naive to think that this can happen without confrontations and polarization."[35] In other words, to strengthen support for heritage policies, inclusive heritage management needs the tools to expose dissonances.

Making Space for the International Zone

The World Forum area in the western part of The Hague's Zorgvliet district, which to this day forms the urban backdrop for Van der Steur's monumental building on the small square now known as Churchillplein, sheds an interesting light on the urban dynamics of a contemporary international area in a Netherlands context. Here, as for so many places, the invisible past seems

important for a better understanding of its fragmented spatial character. However, the very rigid spatial transformations of the past century may also have erased so many traces that we may wonder how much of the palimpsest is still extant. Bordering the densely populated Statenkwartier in the north, Zorgvliet was formed from a landscaped park that originally formed part of the 17th-century Sorghvliet Estate along with the nearby Catshuis, still in use as the Prime Minister's official residence, a mix of historic villas bordering the old park, and the Carnegie Foundation's monumental Peace Palace (1913), designed by the French architect Louis Cordonnier and the Delft professor J.A.G. (Johan) van der Steur, the father of EN-NEN Bank's designer. In the 1950s, the only impressive building in the vicinity of Ad van der Steur's bank headquarters was the remarkably modern Gemeentemuseum, designed by H.P. Berlage under the influence of Frank Lloyd Wright (1935, now Kunstmuseum). The original intention was for an open line of sight between these buildings at either side of the plot, but this was thwarted by the construction of the enormous, functionalist Dutch Congress Center (1969), its expansion with a high-rise hotel and the substantial Statenhal, and the eco-experience museum Museon (1985, now Museon-Omniversum) near the Gemeentemuseum.[36]

Still, for a long time, the area was at least visually connected by green corridors linking to Sorghvliet Park from the west side of Johan de Wittlaan. Since the 1990s, however, the area has further densified with the arrival of more institutions in the surroundings of the Congress Center, which was then renamed the World Forum. This process began with the arrival of the UN International Criminal Tribunal for the former Yugoslavia (ICTY). Established by the UN Security Council in 1993 as an ad hoc tribunal to investigate and prosecute war crimes from the ongoing Yugoslav Wars, the ICTY was by far the most prestigious international organization attracted by the city of The Hague under the banner of "City of Peace and Justice." A year later, when the ICTY moved into the vacant west wing of the Aegon Bank building, the legal successor to the EN-NEN bank, part of the building was still in use by the bank and insurance company. Only after that body moved in 1998 to a newly designed headquarters building at Aegonplein on the outskirts of the city, the Tribunal was assigned the entire building, which remained designated as Churchillplein 1.

While the arrival of the Tribunal, initially with about 380 employees, presented the Dutch government with numerous financial, spatial, legal, and security challenges, it developed over the next decade into the largest and best-known international legal body in The Hague, with about 1,200 staff members, lawyers, and judges of more than 80 nationalities at the peak of its activities around 2009-2010. This figure fell to about 425 employees (with a

budget of USD 180 million) near the end of its mandate period (2015-2016).[37] After the closure of the ICTY in 2017, the International Residual Mechanism for Criminal Tribunals (IRMCT), established by the UN in 2010 to complement the ICTY in The Hague and the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania, employed around 225 people (from 58 member states) at its branch at The Hague, falling to about 170 in 2024. It also still had 25 independent judges serving both branches. Of the three Principals of the IRMCT, the President is seconded to The Hague, the Prosecutor and Register to Arusha. The Mechanism's current tasks mainly concern appeals processes concerning the ICTY, assisting national courts and monitoring cases brought before national courts in the post-Yugoslav countries concerning requests for prosecutions of international crimes, the execution of sentences, the protection of witnesses and victims, the housing of (still) five detainees (including Ratko Mladić) in the UN detention unit at Scheveningen Prison, and the preservation and digitization of the extensive files in the archives of the Chambers, Prosecutor, and Registrar.[38]

Whereas in the early 1990s not a single building in The Hague offered sufficient space to house the (then relatively modest) Yugoslavia Tribunal, initiatives of municipal and central government would lead to the establishment in the city of more than 30 international public organizations and UN institutions within just one decade.[39] Today, this number has grown to about 200.[40] While the EN-NEN (Aegon) Bank building was still a beacon in Willem Dudok's post-war urban park landscape, the ICTY in the 1990s became the centerpiece of The Hague's new "International Zone," which expanded through the city, with ever newer and taller office buildings, from the Statenkwartier to the Willemspark. In 1997 the Organization for the Prohibition of Chemical Weapons (OPCW) was briefly located in the ICTY building before moving to the new hemispherical building behind the World Forum. A year after the European Union, it received the Nobel Peace Prize in 2013. Shortly before, in 2011, the headquarters of the European Union Agency for Law Enforcement Cooperation (Europol) was also established near both international organizations, after ten years of being housed in a different location in the city, and in 2017 a brand new building was opened on the other side of the Johan de Wittlaan for the European Union Agency for Criminal Justice Cooperation (Eurojust), which had also been located in The Hague since 2003. By then the World Forum-Zorgvliet neighborhood had become by far the most prestigious, and secured area of the International Zone.

An important factor in all this was the space freed up for large-scale office construction in the International Zone and the active role of the national government in its development for international headquarters.

In the Zorgvliet district, this was along Johan de Wittlaan on the edge of Sorghvliet Park, and on the vacant site of the enormous Statenhal, which was demolished in 2004. The adjacent Congress Center was given a new lease on life in a slimmed-down form under the new, international name The Hague World Forum. This provided no less than 32,000 square meters of space for the new Europol headquarters, which opened its doors on Eisenhowerlaan in 2011 opposite the World Forum and in the immediate vicinity of the Tribunal.[41] This part of the Zorgvliet district had by now become the center of The Hague's International Zone, the other component areas of which were centered around the Peace Palace, a UNESCO World Heritage site, with the UN International Court of Justice (ICJ) and the Permanent Court of Arbitration (PCA) and Plein 1813; along the Oude Waalsdorperweg with the International Criminal Court (ICC) and the NATO Communications and Information Agency (NCIA), and most recently the International Boulevard (Raamweg) that runs from The Hague Central Station to Scheveningen, with the former Shell headquarters and the Kosovo Tribunal in the former Europol building, and which—like the Oude Waalsdorperweg—ends up at the ICTY's UN Detention Unit.[42]

Despite the seemingly self-evident nature of this internationalization, the urban zoning of The Hague was by no means a linear process. Like Berlin, The Hague also underwent several radical transformations under the influence of opposing forces of preservation and development. Around the historically preserved city center with the still in use Gothic Binnenhof (Inner Court) of the Count of Holland, later stadtholder of the Dutch Republic, as one of the oldest parliamentary building complexes in Europe, the city has expanded enormously only since the beginning of the 20th century, especially in the post-war reconstruction period. It has today resulted in a remarkable hybrid cityscape of centuries-old palaces and mansions alongside modern American-style skyscrapers. Especially in the war-ravaged areas on the edge of the old city in the western inner dune area, such as in the Zorgvliet district, the dissonances between restoration and reconstruction came to the fore.

One example of such public dissent regarding spatial interventions that is relevant to our research concerns the preparation in 2006 of a new zoning plan for the redevelopment of the Zorgvliet and World Forum area, specifically the strip that runs from the ICTY to the Museon-Omnivorum. Discontent began with the dismantling of the still relatively new Statenhal in 2004, then took on a more institutionalized form when the district council of the adjacent Statenkwartier, as the main consultative body for zoning plan changes in this sparsely populated planning area, objected to the

further densification of offices. Because the municipality wanted to compete internationally for more European offices with Geneva, Paris, Vienna, and Strasbourg, high-rise buildings would become central to the integral urban development vision "World Forum The Hague," presented by the Rotterdam international architecture bureau KCAP in 2004.[43] Local criticism focused on the enormous Europol office building, with its four huge, gray, slab-like towers and underground parking, designed by Quist Wintermans Architects to be built on the vacant lot of the once so popular Statenhal.[44] "No room for mastodons here," was the view of residents of the Statenkwartier in 2006, who considered it, with its brutal architecture and high fences, less of an architectural statement and more of a symptom of a visionless, disjointed fragmentation in the area's office buildings.[45]

Also to the recent assessment of Crimson Architects these large building complexes are sited in a rather haphazard manner, turned in on themselves, with incoherent orientation of entrances interspersed with access to underground parking levels, and surrounded by a forest of fences and barriers.[46] Its report also points to the halving in size of the large pond on the forecourt Van der Steur's original EN-NEN Bank, the addition of the two upper floors to the wings of the main building and the construction of a two-story underground car park (by Rosdorff Architects) commissioned by Aegon Bank in 1988-1991, which would be at the expense of its monumental appearance, with "the effect that the building takes on a castle-like character."[47]

There is no doubt that this fragmentation has increased with the arrival of the International Criminal Tribunal for the former Yugoslavia, which confronted the region with a security regime that would later become only stronger with the arrival of Europol, Eurojust, and other international institutions.[48] Nonetheless, from the perspective of this report, they should not be viewed only negatively. In fact, the same applies to this "biotope" of the Yugoslavia Tribunal as to the additions made in the building itself. Elements such as the various courtrooms, built-in stairwells and temporary cell blocks, have no monumental value, but they do have a high memory value. Similarly, the exits from the parking lots, in addition to the guard post and other security barriers, and the facilities for the many broadcast vans for television coverage of the witness hearings and verdicts, all affected the visitors' experience and the global public perception of the Tribunal from 1993 to 2021 (as will be further shown in following chapters). No less important than the actual construction of the former Yugoslavia Tribunal was thus this forest of fences and antennas from the roof to the square, the side entrance for the transports of the suspects to and from Scheveningen, and in the side garden of Churchillplein 1 along the Johan de Wittlaan the

large television antenna (now removed) – the latter which might even been considered an iconic symbol of the worldwide media attention for the eagerly followed judgments of the Tribunal. This clash of monumental and commemorative values reveals something of the many heritage dissonances of a dynamic process of space creation at the micro level.

Considering that the aforementioned objections against the 2006 Zorgvliet and World Forum zoning plan did not arise solely from the long construction period of Europol's head office or from objections to the internationalization of the area as such, it is very plausible that these dissonances at area level were amplified by the top-down management and communication strategy of politicians and urban planners, which left little room for citizen participation in this large-scale transformation of public space. This seems to be confirmed by the way in which the municipality has dealt with the views submitted by the districts of Zorgvliet (700 inhabitants) and the Statenkwartier (10,000 inhabitants) during the mandatory ten-year revision of the zoning plan in 2016. Although the municipal redevelopment plans expressed the intention to keep the International Zone attractive and sympathetic as a calling card for the City of Peace and Justice, the top-down approach to the views of neighborhood committees and residents gives the impression of an accumulation of misunderstandings. Too often, the municipal executive used obvious errors made by citizens about the provisions of the zoning plan as excuses.[49]

Moreover, the apparent lack of serious attention to the interests of residents may have raised local sensitivities due to previous experiences with similar developments in the same plan area. For nothing appeared to have been more changeable than precisely this area which from the beginning of the 20th century was characterized by a succession of radical transformations. Around 1900, the current Zorgvliet and World Forum area was still part of the landed Zorgvliet estate. A decade later, together with the construction of the monumental Peace Palace, a residential area with rustic villas was created. Barely 30 years later, however, it was completely wiped off the map. The stately suburb had to make way for the construction of a huge anti-tank trench (1942-1944) as part of the Nazi German Atlantic Wall. Subsequently, this part of Zorgvliet was thoroughly redesigned during the reconstruction period with the so-called "Dudok Plan", to finally, from about 2000, for the fourth time in less than a century, to be redeveloped as an international district with the clustering of new tower buildings around the World Forum.

It might not come as a surprise that protests like those accompanying the arrival of Europol were voiced as early as the 1950s against the reconstruction

plans of the leaders of *Nieuwe Bouwen*. Those leaders included the modernist architect J.J.P. (Ko) Oud, who before World War II had belonged to the international avant-garde and successfully propagated the principles of modernism even within the National Commission for the Preservation of Monuments. After the war, however, he imposed a strict ban on the rebuilding of war-ravaged cities in their former historical style. Like German urban planners at the time, and like the planners of the "reconstruction city" of Rotterdam (of which his brother was mayor), Oud proposed a rigorous break with the past through a radical redesign with no reference to original street plans. As proof of the profound influence of a modern historicist conception of art in which "imitation was taboo, honesty a commandment," his plea for a "purification of the historical task" was still being defended by Dutch architectural historians as late as the 1980s.[50]

Likewise, Willem Duduk, the modernist architect who in 1949 was responsible for the urban development 'structure plan' of The Hague for both the post-war reconstruction of the destroyed districts and the construction of the new expansion districts, industrial areas, and modern infrastructure, saw nothing in the wishes of former residents to rebuild their destroyed districts. True to the spirit of Riegl and Kalff, he too believed that no art could come from imitation, and that "all rebuilding essentially lacks artistic value."[51] Realised of Dudok's plan was also one of several proposed large spatial connection along from the Johan de Wittlaan (Zorgvliet) in the northwest to Laakhavens in the south-east border of the town. Before the war, Zorgvliet had been one of the most popular residential areas in The Hague, and the progressive zeal with which Dudok already in his 1947 "basic plan" completely erased its historic traces, provoked fierce protests among former residents in this badly ravaged neighborhood. The most prominent among them, KLM founder Dr. Albert Plesman, received much support for his campaign for a reconstruction of the destructed houses according to the original residential area plan from 1911. Dudok felt cornered by these objections from former residents as well as by the city's opposing desire to further densify its open spatial plans for financial reasons, and after his resignation as The Hague's city planner in 1951, project developers and city administrators adopted his reconstruction plans. Although new objections were filed against the high density of modern buildings and the loss of historic districts, after Plesman's death three years later, the procedures would come to a dead end.[52]

Although the general idea of Dudok's total structural plan is still recognizable in the urban design of The Hague, only the idea of an 'island' with public functions and offices has been preserved from his 'basic plan

Stadhoudersplein-Scheveningsche Boschjes' from 1947; his cultural center, theatre, archive and conservatory have not been realized. But at this point, Dudok's post-war status as a modernist designer began to differ more and more from that of Oud. While the resigned urban planner was praised for his revolutionary pre-war architectural designs, such as Hilversum's town hall, long after the war, his modernist ally Oud fell out of favor with their former CIAM and American supporters. Immediately after the war, they accused Oud of having violated modernist principles with the newly completed Shell headquarters in The Hague (1938-1946). According to the international architecture movement, this neoclassical colossus on the Wassenaarseweg with its elaborate decoration (with the shell as its logo) symbolized his "betrayal of modernism."[53] While Oud was relegated to the modernist scrap heap, Dudok was honored by the American Institute of Architects in 1955 with the AIA Gold Medal as the Dutch pioneer of modernism.[54] Nevertheless, Oud's turn to fashionable conservatism earned him prestigious public contracts in his own country, such as the national war memorials on the Grebbeberg and on the Dam in Amsterdam. His last project was the Dutch Congress Building in Zorgvliet (1958-1969), now The Hague World Forum, opposite the EN-NEN Bank, which was completed after his death by his son Hans Oud. Although the design was more functionalist than his Shell building, as far as Dudok was concerned, the closed building volume of this enormous complex disturbed the coherent building image that he once had in mind for the urban design of the Zorgvliet area, even more than Van der Steur's bank head office.[55]

Yet this fragmentation and densification would continue with the expansion of the Congress Center with its seventy-meter tower "Oud Tower", the Bel-Air Hotel (1971), and the, short-lived Statenhal (1988). The biggest violation of Dudok's plan, however, was the densification of the area around the EN-NEN bank building and the Dutch Congress Center two decades later at the time of the Statenkwartier protests. This was a consequence of the municipal designation of the district as an urban concentration area within the framework of the International Zone, which offered plenty of opportunities for office construction by project developers in the traditionally green zone south of Johan de Wittlaan. The long wing of the Congress Centre had already made way for the 1988 Statenhal, which was loved by a large audience as The Hague's largest permanent event hall, but despite resistance was also demolished in 2006 to make way for the new Europol building. Another transformation concerned the square between the Congress Center and the EN-NEN building with the construction of the two-story underground car park for EN-NEN's successor Aegon Bank in 1989 (by Flip Rosdorff, the

former designer of the Statenhal). The forecourt with its elongated pond, which was shared with the Congress Center, was then replaced by the current elliptical pond, intersected by the sunken trenches for the entrances and exits.[56] During the redevelopment of this new "Churchillplein", the halving of the pond equipped with a new work of art (that no longer responded to Van der Steur's frontispiece) was only the beginning of a process that, as we have seen, after the allocation to the ICTY and Europol's move to the square, resulted in a "forest of fences and barriers".[57]

Bringing the Neighborhood Back?

The balancing of urban and human interest, of red and green, has been a long concern in The Hague's International Zone, the heart of which is comprises the former Sorghvliet Estate and housing estate area, then renamed as the "Zorgvliet and World Forum cluster." Although even Dudok's modernist design from the 1950s envisaged laying the area out with open spaces, this intention changed in the early 21st century, as national and provincial policies sought to attract international organizations with stringent security requirements, such as the UN Yugoslavia Tribunal and World Forum (the latter opening in 2017), the OPCW (1998), Europol (2011), Eurojust (2017), and several embassies. The last of these high-security institutions was the new Israeli Embassy on Johan de Wittlaan (2020), after the previous proposal to locate the embassy in a prestigious villa on Plein 1813 met with protests from residents and local politicians because of the damage to architectural values to meet security requirements.[58]

Local heritage organizations still mourn the erasure of The Hague's pre-war housing-estate neighborhoods as well as the openness of Duduk's plan. "Gone for good," in the words of the website "Remembrance Route Atlantic Wall The Hague", an initiative of residents, The Hague Historical Museum, Museon-Omniversum, and Atlantikwall Museum Scheveningen. Devastated residential areas of the Statenkwartier, Duinoord, and Zorgvliet were not restored, and these areas today are dominated by high-rise concrete buildings epitomized by the Europol headquarters, a structure now popularly known as the "new anti-tank wall."[59]

In the meantime, however, the municipality of The Hague seems to be tied hand and foot by new government rules such as the Provincial Space Regulation (Spatial Regulation) that has designated the Zorgvliet cluster and the World Forum as an "office concentration area". This limits the possibility of converting office functions into housing, for example through

the purchase of disposed state buildings (through negotiations with the RVB). It forced the city to change scenarios, although this led to creative proposals such as a new area vision (*Gebiedsvisie*) for the International Zone, intended to connect the fragmented green zones of Scheveningse Bosjes, Zorgvliet, and Klein Zwitserland into an "archipelago of parks within the dunes" that encircle The Hague (2015).[60] It is noteworthy that on the initiative of the municipality, a jury chose the Amsterdam firm DS Architects to develop a landscaping plan for the 34,000-square-meter public space of the World Forum-Europol cluster, in order to achieve a viable integration of the combined underground car parks of the Europol Office, World Forum Buildings, and perhaps also Churchillplein 1. It proposed the creation of an intra-dune concept layout to connect the international allure of Churchillplein with a park-like greenery around the Gemeentemuseum, accessible to slow traffic via an intricate routing from Catsheuvel. But so far, the high expectations of this plan to "soften the landscape," which also promised to address resident's grievances by increasing the amenity value for cyclists and walkers as part of the International Zone walking route, has, again because of provincial regulations on its destination as office concentration area, not as yet brought much improvement in the experience of this heavily surveilled office park.[61]

The spatial fragmentation of the Zorgvliet and World Forum district, which includes both Europol and the ICTY among tens of stakeholders, thus gives the impression of an undesirable compromise with asymmetric relationships. Nevertheless, this cluster as the core of the International Zone not only offers a picture of spatial fragmentation, but also an interesting interplay of international institutions, offices, museums, a conference center and hotels with opportunities for trade fairs, festivals and summits, and an iconic significance for the international legal order. But also, in functional contacts with the municipality, the safety issue of the densely built-up office complex seems to increasingly limit the space for area improvement. For instance, in a round of consultations on the 2015 zoning plan (Bestemmingsplan), the city largely aligned itself with concerns of Europol's security coordinator, pointing to the security risk to Europol as "a highly security-oriented international organization and a direct neighbor of the Tower of Oud" (1961-1968), the city's first 18-story tower block designed by Oud as a hotel for guests of the adjoining Congress Center (later World Forum). On the advice of the National Coordinator for Counterterrorism (Nationaal Coördinator Terrorismebestrijding, NCTb), the municipality had already decided in 2010 to make "controlled use" of the Tower, and it now also developed a Security Zoning Model around Europol's premises while

assuring that it was "top priority for the designation of the zoning purposes and construction possibilities in and around the Tower of Oud" and "for the designation of the zoning purposes and construction possibilities in its immediate vicinity." Europol thus became another dominant factor in the urban planning of the Zorgvliet and World Forum cluster and the activities of the stakeholders. Less lenient was the attitude of the municipality towards PingProperties BV as the legal representative of its main tenant, the UN Yugoslavia Tribunal. The owner refers in the comments to the 2015 zoning plan, to "talks with several parties who are interested in renting/continuing to rent in the building, including a museum and the current tenant" (most likely Humanity House's NoW Museum initiative in relation to the IRMCT). It asked for permission "to carry out a thorough renovation in the medium term, so that the building meets the current requirements again" for combining the functions of offices, archive and museum. Although the municipality allowed these combined uses of the building, it responded negative on the request for renovation with an extension on the forecourt: "The current zoning does not allow for new construction on the site of the pond. This has been included in this zoning plan. The building has been designated a national monument, and the existing building mass has been redetermined."[62]

With this in mind, it is surprising to take note of a 2020 study commissioned by the national government, the landowner, on improving "the poor quality of public space" of the Zorgvliet and World Forum cluster by young international urban planners from NoRA (Network of Research & Architecture). Starting point of their "site analysis" is again the observation that "in an almost deserted environment, one is faced with an assembly of autarkic and heterogeneous components that leads to a repetition of the same ingredients that visually and physically make up the open space: parking barriers, parking ramps, security fences, back-of-house [canteens] and loading decks, etc." Like DS Architect's earlier proposal for a dune archipelago for the International Zone, it points out with a slight linguistic twist, the stark contrast with the scale and grain of the city and the adjacent Sorghvliet Park: "this archipelago of international organizations has turned into a colossal autarkic island that the local inhabitants prefer to go around rather than traverse"[63] But given the irreversibility of this "visual pollution", NoRA is taking an unconventional direction by then proposing an even "wilder" plan than that of DS Architects. Instead of green wedges, the entire area should be transformed into a wooded dune and swamp area, or – if necessary in the event of sand drifts – a polder landscape with meadows, cows and stone walls.[64]

As, because of the scale of the buildings, it "no longer seems possible to bring this place back into the lap of the conventional city", the young innovators make the brutal decision "to fully embrace the exceptional character of the site and push it to the limit." Far removed from any notion of citizen participation, zoning plans or heritage legislation, this mind-bending architectural proposal encourages a top-down strategy to completely isolate it from the adjacent urban environment "fully and courageously", because "half measures will [not] be enough to give the site a poetic and fantastic appeal if the dunes do not completely take over." From this desire for the sublime, it also recommends "implementing a few new buildings to replace old structures and welcome new organizations." Apparently, these include the forecourt and pond of Churchillplein 1, whose function as UN Tribunal building is not even indicated – one may hope out of ignorance. In this hyperreal surveillance spirit, "the realization of a real campus is promoted, where part of the supporting infrastructure is shared and the entire perimeter is secured."[65] Thus, this "bold, radical" umpteenth attempt to erase the cultural biography of the neighborhood ultimately turns out to be a fully designed natural "fantasy landscape" closed off to residents.[66]

In this context, it is relevant to take note of a comparable policy in the city of Brussels, the seat of the Belgian government and the headquarters of the European Parliament, the Council of Ministers, and the European Commission, where in June 2024 the city council decided on a proposed purchase of no fewer than 21 (!) huge EU office blocks in its international district. As we have seen, something comparable, but on a smaller scale, failed in The Hague. However, the argument of the Brussels council, that its European Zone has become unlivable, finds support from urban planners and architects, EU staff, and most residents. "Everything you don't want in a city district is going on here. This is what makes it such a problematic neighborhood," says urban planner Ward Verbakel. The city's role as the de facto capital of the European Union "also left Brussels with a gigantic scar." Entire residential blocks were demolished and green layers filled for the construction of these colossal buildings, comprising meeting rooms and basements with several underground layers of parking garages for EU officials. Meanwhile, the neighborhood was entirely paved. Blind façades of office monoliths and narrow footpaths mean that, "as a passer-by, you are not rewarded for your presence." Worse, most buildings in this quarter have been connected over the years, creating a catastrophic office juggernaut with a whopping 100,000 square meters of floor space, and "the entire city center is built up to the last bite," according to Verbakel.[67]

What is outlined here for the European Zone of Brussels almost seems a vision of the future of the International Zone of The Hague. Yet, for the coming years, the Brussels municipality has committed itself to a huge transformation by giving office blocks back to residents, to allow the city to regain control of its public space: "Offices become homes, meeting rooms become crèches. It should really bring the neighborhood back to life. The roofs could become urban forests." Thousands of square meters of office space will be transformed into homes in the European Quarter in the coming decades. This is a consequence of the European Commission's decision at the beginning of last year to sell a significant number of its current buildings in Brussels, because of the definitive breakthrough of teleworking, and the desire to make the building stock greener and more sustainable—most offices are outdated and consume too much energy. Around twenty outdated office buildings have already passed to a real estate fund, Cityforward, which was set up for this purpose in a transaction involving 300,000 square meters and EUR 880 million, financed by banks and governments (due to lack of interest from private investors). As Verbakel explains, "the fact that such a gigantic real estate portfolio suddenly falls into the hands of a public player, and at such a sought-after location, creates unprecedented opportunities." The Brussels Region is now working on an urban vision with a spatial plan for the transformation of the EU district into a mixed district. For the first three projects, design competitions are already underway. At least a quarter of the buildings must become living space, i.e., hundreds of apartments, with new pedestrian passages, and "with residents you get social control." Public space promises to remain public even after sunset, and without private financiers it is easier to think about demolishing certain interior spaces for greener results. The first renovations may be completed in five years, and the whole project within ten, which is "lightning speed by Brussels standards."[68]

With this in mind, the question now arises: how should we interpret the dynamics of place in the vicinity of Churchillplein 1? As noted, the Zorgvliet and World Forum cluster is the core center of The Hague's international zone, and it is interesting to see how its development confronts us with two contradictory urban narratives. One is that of Thompson's waste theory, the heritage cycle that turns old slums into sought-after, expensive residential areas and historic tourist centers—a process that, for cities like London or The Hague, can be described as gentrification. The other is that of the modernist functional city that does not care about public space or street life. For, to quote the American architect of German-Jewish descent Peter Blake, "high-rise buildings are a tool of real estate speculation – and the modernist

architects who provide the aesthetic justification" with their creed-form follows function, "have lost sight of who they are building for: people."[69]

Along this second route, no heritage is created, only business districts, which, like the suburbs, have no history. The American-Canadian city critic Jane Jacobs already emphasized in her *The Death and Life of Great American Cities* (1961) the reduction of the quality of life in cities when the connection with the street is lost. The utopian principles of Le Corbusier's "Radiant City" (*Ville Radieuze*, 1930) found their most powerful supporters among American urban planners such as Robert Moser in his metropolitan renewals of New York. Designed for office work, car traffic, and shopping malls, their monofunctional districts and visual uniformity were deadly to small businesses, pedestrians, and children in Jacob's eyes.[70] As James Scott noted of her everyday-life approach to urban sociology, "where Le Corbusier initially 'sees' his city from the air, Jacobs sees her city as a pedestrian on her daily rounds." Her "ethnography of micro-order in neighborhoods, sidewalks, and intersections," sparked a debate about the value versus failure of urban planning, the resonances of which are still felt today.[71]

In her footsteps, urban sociologists contrast the modernist planned city with its rigid 'zoning' according to the logic of functional segregation with the economic success and the appeal of the much lively, diverse, complex and attractive historically 'lived city'. With its many types of shops, entertainment centers, services, housing options and public spaces within walking distance, this rich blending deliver "almost by definition, a more resilient and sustainable neighborhood" for residents.[72] In Brussels, that message has been picked up by city planners, as we saw: densification with high blocks has nothing to offer pedestrians, "because their high, flat surfaces deflect the wind to street level, disrupting pedestrian circulation and making open-air restaurants and cafes unfeasible." The urban planners of the modernist movement rejected the street when it became an "urban sewer,", but our city streets can and should be "places of intimacy and interaction rather than … wastelands of alienation," to speak with Blake.[73] Marco Polo and Italo Calvino would surely agree with his *Form Follows Fiasco* (1978), that "the ideal city block—in terms of life as it is lived, not life as it can be designed—is a capsule travelogue of our time, and of all the times that preceded and helped to shape it".[74]

Final Remarks: Limits and Challenges

In Zorgvliet and World Forum, we noticed how residents fought for the quality of life in an increasingly separated neighborhood with more and

more obstacles for pedestrians or cyclists. The life of the district was lost with streets and building blocks created on the design table, where form follows function. Churchillplein too is a product of urban planners and architects, dating back to a planned residential area of the early 20th century, and reaching new orders of magnitude with the Dudok plan, before the establishment of the Tribunal and further densification with public high-rise buildings of increasingly international character. Van der Steur's building fits within this dynamic identity, of which the building is a vehicle in two respects, as the first post-war monument and as the main impetus for The Hague's new International Zone under the principle of peace and justice.

A monument, as explained before, is not fabricated in one fell swoop, but enriched by its cultural biography, and Riegl would concur that it is not the intended quality which makes it valued as a monument, but its unintended "age value." This applies to our long-term assessment of the many findings about the transformations of the Zorgvliet-World Forum district and Churchillplein 1. Yet we must heed the warning of Freeman Tilden, that "information as such, is not interpretation." Even though all interpretations include information, "they are entirely different things."[75] Quality cannot be measured, but needs to be experienced and understood from more than a single, prescribed perspective. As noted, Dudok's 1947 urban development plan and Van der Steur's EN-NEN bank design still strongly exude their modernist approach to architecture as work of art. From their standpoint, what matters is mostly an aesthetic appreciation of the creative genius of the designer as expressed in intrinsic values of beauty, solidity, and originality. Whereas for these modernist architects cultural heritage was simply worthless, and a 'monument' was only valued for the artistic fame of the designer, we can nevertheless be amazed at the enduring appeal of images of the modernist ensemble of Churchillplein 1 in the setting of Dudok's urban design for the Zorgvliet area. But without becoming intoxicated by this utopian legacy of modernism, it must be concluded that later functional adjustments and interventions detract so much from the original, open 'Dudok plan', of which Van der Steur's EN-NEN bank was intended to be the jewel in the crown, that it is hardly possible to re-imagine its visual quality and coherence of function and form.

As noted above, this dynamic process of space creation reveals a clash of monumental and memorial values, exemplified in the case of the ICTY building by the presence of functional traces of the Tribunal, such as cell blocks and a "forest of fences." Removing these 'distortions' would undoubtedly increase the aesthetic value and livability for pedestrians, but it would also detract from the internationally communicated image of the Hague

Tribunal and the current use of the area. The fences, along with the upper floors added in the 1980s and the later courtrooms and cell blocks, have become as much a part of its biography as its design and uses. In this sense, the building was already a living memorial monument when included in the national monument register in 2009, which might therefore be considered a reference period.

To sum up: the ICTY period demands a separate assessment unrelated to the former insurance bank period. In terms of design this is of course crucially important, because form and function do matter. While other functions integrate, include or dispute these monumental values, the Tribunal period concerns the memory value of the site. This assessment is of course by no means a plea for *more* fences and fragmentation, because the openness of the site to visitors is another criterion by which its symbolic role could be appreciated. International law scholar Otto Spijkers therefore points to the crucial role of an information center, library, or memorial center for legal monuments "which can serve as an archive of the many personal stories told by witnesses and victims testifying before the ICTY."[76]

The former ICTY's ensemble value might then be further enhanced by a spatial link with a permanent Srebrenica Genocide Memorial, for which the forecourt would offer a functional and symbolic relation in continuation of the symbolic art of the original design, and in that sense a marker not to strengthen the monumentalization of the past, but a monument for sharing people's stories and experiences. From this perspective, it is also relevant to consider the role of such material evidence, the square and forecourt as well as the interior, in contributing to healing for victim communities who still suffer from traumatic memories. For such groups, visiting and seeing the courtrooms and cell blocks in which the defendants were locked up has a very high memory value. This is not only because, like the archival records, it provides direct evidence refuting any suspicion of manipulation, exclusion of other visitors, and political abuse, but above all because an experience of place is the primary means of personal processing or interpretation, and "any interpretation that does not somehow relate what is being displayed or described to something within the personality or experience of the visitor will be sterile."[77]

To drive the argument home, one can understand from such a perspective the importance of properly guiding, communicating, and co-designing the repurposing, renovation, and restoration practices of urban areas and important monuments. Because sensitive issues surrounding the preservation of material heritage can evoke strong emotions and strike a chord with the media. Perceived as threats to the safeguarding of intangible

values of memory and identity, they may easily be abused in public life for antagonistic politics of the past. Considering the risk of propagating heritage dissonances and uncontrollable managing practices in today's mediatized society, it therefore becomes increasingly important to broaden the support base of heritage interventions. After all, decisions about the future of iconic sites are no longer only seen as the exclusive right of the legal owners (or project developers, or main tenants), but also, at least in the case of public buildings, as a moral obligation of society. Adaptive reuse of monuments should therefore offer more than just an architectural and technical update to meet the needs of new users and standards.[78]

Resilient cultural heritage valuation demands a securing of the economic, social, and cultural benefits to owners of a site, to neighboring residents, responsible authorities, and urban managers, and to other stakeholders like memorial groups and engaged communities. In other words, as authenticity cedes its traditional key role in authorized assessments of material heritage to intangible values in public debate, heritage interpretation and policy require a new, integrated approach of investigation, identification, and valorization. Indeed, heritage values attributed to objects, buildings, and landscapes are increasingly assumed to reinforce the identities of people and places. Conversely, this also implies that a disregard for such values can lead to a lot of dissatisfaction among residents, experts, stakeholders and pressure groups, as well as among the many witnesses, memorial communities, the international academic and legal community, and so many others for whom the rule of law, recognition, and remembrance is still something to fight fore. This will be shown in the following chapter.

Notes

1. Italo Calvino, *Invisible Cities* (Harcourt Brace 1974, orig. Italian ed. Einaudi 1972),11.
2. Arnold, *Reading Architectural History*, 7.
3. Arnold, *Reading Architectural History*, 7.
4. Carlo Ginzburg, "Sporen. Wortels van een inductie-paradigma," in: Ginzburg, *Omweg als methode. Essays over verborgen geschiedenis, kunst en maatschappelijke herinnering* (Nijmegen: SUN, 1988), 206-262; Carlo Ginzburg, "Clues: Roots of a Scientific Paradigm," *Theory and Society* 7 (1979), 273-288, URL: https://doi.org/10.1007/BF00207323 (Accessed October 5, 2024).
5. Freeman Tilden, *Interpreting Our Heritage* (4th ed. Chapel Hill: University of North Carolina Press, 2007), 34-5.

6. Aleida Assmann, "Canon and Archive," in Astrid Erll and Ansgar Nünning, Eds. *A Companion to Cultural Memory Studies* (De Gruyter 2010), 97-107.
7. John Ruskin, *The Seven Lamps of Architecture* (London 1849), as paraphrased in Aleida Assmann, "Geschichte im öffentlichen Raum: Architektur als Erinnerungsträger," in: Assmann, *Geschichte im Gedächtnis. Von der individuellen Erfahrung zur öffentlichen Inszenierung* (Munich 2007), 96-135, esp. 97.
8. R. van der Laarse, "Erfgoed als constructie van vroeger," 12.
9. Aleida Assmann, "Geschichte im öffentlichen Raum: Architektur als Erinnerungsträger." In *Geschichte im Gedächtnis. Von der individuellen Erfahrung zur öffentlichen Inszenierung*, Munich: C.H. Beck, 2007, 96-135, pp. 99-100.
10. In the Netherlands it was equally called *Nieuwe Bouwen* (*Neues Bauen*) and *Nieuwe Zakelijkheid*: Wim Denslagen, *Romantisch Modernisme. Nostalgie in de Monumentenzorg* (Amsterdam: SUN 2004), 17- 27; Denslagen, "Harmonisch stadsbeeld," 162-175, and Frans Heddema, "Ik wil herstel van de oude monumentenzorg." Wim Denslagen, auteur van opmerkelijk boek," *Binnenstad* 206 (Amsterdam, July 2004), URL: https://www.amsterdamsebinnenstad.nl/binnenstad/206/denslagen.html (Accessed August 31, 2024).
11. Jan Kalff, *Grondbeginselen en voorschriften voor het behoud, de herstelling en de uitbreiding van oude bouwwerken* (Leiden: NOB/ Theonville, 1917), cited in Denslagen, *Romantisch modernisme*, 102. Kalff was the first director of the Rijksbureau voor de Monumentenzorg (Netherlands Institute for the Preservation of Monuments) and later adjusted his own Principles by arguing for artisanal restoration rather than contemporary design and a law (which never passed) to prohibit the demolition of monuments.
12. As for instance in case of the "lost" medieval lower town of Nijmegen—lost not to war damage but postwar urban renovation: Dik Berends, Gabri van Tussenbroek, "De middeleeuwse huizen van de Nijmeegse Benedenstad. Resultaten van een historisch documentatieproject (1959-1973), *Bulletin KNOB*, 123(2002) 2, 23-49, and compare for the impact of Dutch architectonic reconstruction in international perspective, Anita Blom, Simone Vermaat, Ben de Vries, *Post-War Reconstruction the Netherlands 1945-1965. The Future of a Bright and Brutal Heritage* (Rotterdam: Nai010, 2017)..
13. Cf. M. Christine Boyer, *The City of Collective Memory: Its Historical Imagery and Architectural Entertainment* (Cambridge, Mass. 1994); Neil Harris, *Building Lives. Constructing Rites and Passages* (New Haven, 1999); Nancy Stieber, "Microhistory of the Modern City. Urban Space, Its Use and Representation," *JSAH*, 58(1999)3, 382-391, URL: https://online.ucpress.edu/jsah/article-abstract/58/3/382/59269/Microhistory-of-the-Modern-City-Urban-Space-Its?redirectedFrom=fulltext
14. Michael Thompson, *Rubbish Theory* (1979), and compare chapter 1.
15. *Nota Belvedere. Beleidsnota over de relatie cultuurhistorie en ruimtelijke ontwikkeling* (Den Haag: VNG, 1999).

16. Gr*otestedenbeleid, voortzetten en verbouwen. Advies over grotestedenbeleid* (VROM-raad, The Hague 2001), 45-46, URL: https://www.rli.nl/sites/default/files/grotestedenbeleid10-2001advies.pdf .
17. J.E. Abrahamse, R. Noyon, *Het oude en het nieuwe bouwen. Amsterdam, de markt en de woningbouw* (Bussum: Thoth, 2007), but also compare the durability of Amsterdam's 19th c. neighborhoods: Nancy Stieber, *Housing Design and Society in Amsterdam: Reconfiguring Urban Order and Identity, 1900-1920* (Chicago, 1998).
18. Issues like the influence of the Nazi New Order and the continuity through from the Nazi occupation to the urban reconstruction projects have only recently been examined, in David Keuning, *Bouwkunst en de Nieuwe Orde. Collaboratie en berechting van Nederlandse architecten 1940-1950* (Nijmegen: Vantilt, 2017), and Geert-Jan Meilink, *Bouwen zonder scrupules. De Nederlandse bouwwereld 1940-1950* (Zwolle: WBooks, 2023).
19. Peter Blake reviewed in Grossi, "Form follows fiasco."
20. Annet Jansen, *Totale ruimte. Jaap Bakema 1914-1981 In de voetsporen van een bouwkunstenaar* (Amsterdam: Querido 2023).
21. Cf. for the German architecture debate in Bonn and Berlin: Assmann, *Geschichte im Gedächtnis*, 100-135.
22. Cf. Gregor Langfeld, *De lange schaduw van het nationaalsocialisme in kunst en samenleving* (Zwolle: Waanders 2023); G. Langfeld, *German Art in New York. The Canonization of Modern Art, 1904-1957* (Amsterdam UP 2015); Christian Fuhrmeister, "Die (mindestens) doppelte Zurichtung der 'gewordenen Kunst'," in: Silke von Berswordt-Wallrabe, Jörg-Uwe Neumann, Agnes Tieze, Eds., *"Compliant Art." Art and Politics in the National Socialist Era* (Bielefeld: Kerber 2016), 103-111.
23. Cf. Claartje Wesselink, "'Uit ons werk, uit ons land, uit onze samenleving!' Het omstreden erfgoed van Henri van de Velde," in: Van Vree and Van der Laarse, *Dynamiek van de herinnering*, 148-168; Wesselink, *Kunstenaars van de Kultuurkamer. Geschiedenis en herinnering* (Amsterdam: Bert Bakker, 2014).
24. *Atelier Neumarkt Dresden 2000* (Stadtplanungsamt, Dresden 2001) 44, quoted in Wim Denslagen, "Het harmonische stadsbeeld. Lessen van vroeger," in Van der Laarse, *Bezeten van vroeger* (2005), 162-175, esp. 163.
25. It should be noted that in Bayern modernism was also contested from the outset, where the *Bayerischer Denkmälerverein* was even politically allied to the Bavarian CSU government of Franz Josef Strauss, who in the 1970s-1980s took sides against the "barbarism of historic erasure" by the "second destruction" of its regional capital Munich by modernist architecture. Strauss's wish to break with the national *Vergangenheitsbewältigung* ("accounting for the past") by promoting a "proud nationalism" in support of postmodernist architecture, was explicitly intended to efface the memory of the Third Reich through new "old" historic architecture, as promoted by Erwin Schleich'ss influential 1978 book *Die zweite Zerstörung Münchens*; Gavriel D. Rosenfeld, *Architektur und Gedächtnis. München und Nationalso-*

zialismus. Strategien des Vergessens (Munich/Hamburg: Dölling und Galitz, 2004) 379-388.

26. Rob van der Laarse, 'Fatal attraction. Nazi Landscapes, Modernism, and Holocaust Memory", in: Jan Kolen, Hans Renes, and Rita Hermans, eds. *Landscape Biographies* (Amsterdam UP, 2015), 345-376.
27. Roger Griffin, *Modernism and Fascism. The Sense of Beginning under Mussolini and Hitler* (New York: Palgrave-Macmillan, 2007); Griffin, "Building the Visible Immortality of the Nation. The Centrality of 'Rooted Modernism' to the Third Reich's Architectural New Order," *Fascism* 7 (2018) 9-44.
28. Heinrich Schwendemann, "Bomben für den Aufbau," in: Stephan Burgdorff & Christian Habbe (eds.), *Als Feuer vom Himmel fiel. Der Bombenkrieg in Deutschland* (Bonn 2004), 220-228. Also many of the Third Reichs' *Fachleute* easily adopted functionalist architecture and urban planning methods; Werner Lorenz, Torsten Meyer, "Einführung" in Idem (Eds.) *Technik und Verantwortung im Nationalsozialismus* (Münster, New York, München, Berlin: Waxmann 2004), 1-18.
29. Bill Neven, "The GDR and Memory of the Bombing of Dresden," in: Neven, ed., *Germans as Victims. Remembering the Past in Contemporary Germany* (New York/London: Palgrave-Macmillan, 2006), 109-129.
30. Cf. Smith, *Uses of Heritage*, 29-34.
31. Ashworth and Howard, *European Heritage*, 135.
32. G.J. Ashworth, Brian Graham, J.E. Tunbridge, *Pluralising Pasts. Heritage, Identity and Place in Multicultural* Societies (London/Ann Arbor 2007), 40.
33. *Erfgoed van betekenis. Verkennend onderzoek naar de relatie tussen onroerend erfgoed en de herinnerings- en herdenkingscultuur in Nederland*, projectleiders Monique Eerden en René Wokke (Amersfoort: Rijksdienst voor het Cultureel Erfgoed, Min. OCW, 2019), URL: https://www.cultureelerfgoed.nl/publicaties/publicaties/2019/01/01/erfgoed-van-betekenis (Accessed 20-10-2024). Compare also "Memorial Heritage Mapping Project," *European Observatory on Memories*, URL: https://europeanmemories.net/memorial-heritage-mapping-project/ (Accessed October 20, 2024).
34. J.E. Tunbridge and G.J. Ashworth, *Dissonant Heritage. The Management of the Past as a Resource in Conflict* (Chichester: Wiley 1996), 69.
35. Višnja Kisić, "Heritage in the era of plurality," in Anna-Maija Halme et al. (eds.), *Heritage is ours. Citizens participating in decision making* (Helsinki: Europa Nostra, 2018), 134-141, esp. 135-6, and cf. Višnja Kisić, *Governing Heritage Dissonance. Promises and Realities of Selected Cultural Policies* (Amsterdam: European Cultural Foundation, 2016), 59-76, 277-283.
36. Maarten van Doorn et al, Eds. *Van de kaart geveegd. Wat in Den Haag verdween voor de aanleg van de Atlantikwall 1942- 1944* (The Hague: De Nieuwe Haagsche, 2020).
37. In 2011 the tally was still 998 staff members of 82 nationalities excluding the judges: "The Cost of Justice," *United Nations. International Criminal Court for the Former Yugoslavia, UN / IRMCT*, URL: https://www.icty.org/en/about/tribunal/the-cost-of- justice (Accessed October 17, 2024); Rupert

Skilbeck, "The Funding of Justice. The Price of War Crimes Trials," *Human Rights Brief*, 15(2008)3, 6-10; Françoise Bouchet-Saulnier, "International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals IRMCT)," *The Practical Guide to Humanitarian Law* (Rowman & Littlefield, 2013, orig. Paris 1998), URL: https://guide-humanitarian-law.org/content/article/3/international-criminal-tribunals-for-the-former-yugoslavia-icty-and-rwanda-ictr-and-the-international-residual-mechanism-for-criminal-tribunals-irmct/ (Accessed October 10, 2024).

38. The IRMCT's other office in Arusha, Tanzania, for handling the Rwanda trials after the closure of the International Criminal Tribunal for Rwanda in 2015, had in 435 staff in 2015-2016 and 120 in 2024: International Criminal Tribunals, Security Council Report, June 2 Monthly Forecast, *UN Security* Council, dated May 31, 2023, URL: https://www.securitycouncilreport.org/monthly-forecast/2023-06/international-criminal-tribunals-10.php (Accessed October 19, 2024); "Tenth annual report of the International Residual Mechanism for Criminal Tribunals, A/77/242- S/2022/583," *UN Security Council*, dated July 28, 2022, 13-14, URL: https://docs.un.org/en/A/77/242 (Accessed October 19, 2024); Twelfth annual report of the International Residual Mechanism for Criminal Tribunals from the President addressed to President of the General Assembly and the President of the Security Council, Security Council, 79th session, 29 July 2024, art. 73 and 93, *UN IRMCT*, URL: https://www.irmct.org/sites/default/files/documents/Annual%20Report-ENG.pdf (Accessed October 20, 2024); "Judges," *United Nations. International Residual Mechanism for Criminal Courts*, URL: https://www.irmct.org/en/about/judges (Accessed 20-10- 2024).
39. Wio Joustra, "Oorlogstribunaal kost Den Haag hoofdbrekens," *De Volkskrant*, June 4, 1993; Nigten, "Den Haag," 121.
40. Rens Steenhard, "Hoe Den Haag de stad van vrede en recht is geworden," Peace Palace Library, May 6, 2024, URL: https://peacepalacelibrary.nl/blog/2024/hoe-den-haag-de-stad-van-vrede-en-recht-geworden (Accessed October 19, 2024); Concept Gebiedsvisie Internationale Zone, *Gemeente Den Haag*, 2, URL: https://denhaag.raadsinformatie.nl/document/7531780/3/RIS302402%20 (Accessed October 9,2024).
41. "Statenhal Den Haag maakt plaats voor kantoorruimte," *Cobouw*, January 16, 2004, URL: https://www.cobouw.nl/89123/statenhal- den-haag-maakt-plaats-voor-kantoorruimte (Accessed October 17, 2024).
42. "Concept gebiedsvisie Internationale Zone, 16-04-2019," *Gemeente Den Haag*, URL: https://denhaag.raadsinformatie.nl/document/7531780/3/ (Accessed 18-09-2024); Jacob Bijl, "Nieuwe ontwikkelingen in de Internationale Zone," *HAACS*, February 14, 2020, URL: https://www.haacs.nl/nieuwe-ontwikkelingen-in-de-internationale- (Accessed September 17, 2024).
43. M. Norder, "Voortgangsbericht The Hague World Forum," Aan de voorzitter van de Commissie Stedelijke Ontwikkeling en Ruimtelijke Ordening,

Gemeente Den Haag, 19-09-2006, URL: https://denhaag.raadsinformatie.nl/document/3337429/1/RIS140419.

44. Client was the Central Government Real Estate Agency: "Europol in Den Haag," *De Architect*, September 1, 2011, URL: https://www.dearchitect.nl/99217/europol-in-den-haag (Accessed September 17, 2024).
45. Arjen Schreuder, "Maar het hek wordt mooi. Waar winden stedelingen zich over op? In Den Haag stuit de verhuizing van Europol op verzet," *NRC*, December 1, 2006, URL: https://www.nrc.nl/nieuws/2006/12/01/maar-het-hek-wordt-mooi-11237860- a995559?t=1726606449 (Accessed September 17, 2024).
46. Crimson Report 2021, 62-67.
47. Crimson Report 2021, 190-192, 249-250.
48. Crimson Report 2021, 67, 89-90, 192-193, 208-209, 249.
49. In the municipality's vision, most of the views concerned the overarching area vision for the International Zone of 2013. For this reason, the executive (B&W) recommended the city council to rule out a remarkably large number of views for not having understood the "exception" of the "World Forum-Eurojust" planning area for this round of consultations; Voorstel van het College inzake vaststelling bestemmingsplan Zorgvliet en World Forum, Reg. nr. DSO/2016.6784, RIS294918, *Gemeente Den Haag*, URL: https://denhaag.notubiz.nl/document/3852361/3/20160929- RIS294918+Vaststelling+bestemmingsplan+Zorgvliet+World+Forum (Accessed September 17, 2024), and compare Bijl, "Nieuwe ontwikkelingen in de Internationale Zone.".
50. Denslagen, *Romantisch modernisme*, 102-3, drawing attention to the defense of Oud by E.R.M. Taverne, "Bouwen zonder make-up. Acties van Oud tot behoud van de architectuur," *Wonen/TABK* (1983), 8-22.
51. Denslagen, *Romantisch modernisme*, 105, and compare "Structuurplan Dudok – 1040", *Urbanplan*, URL: https://www.urbanplan.nl/map/dudok47.htm#:~:text=Structuurplan%20Dudok%20%2D%201949&text=Kort%20na%20de%20Tweede%20Wereldoorlog,niveau%20van%20het%20Haagse%20stadsgewest .
52. Cf. Dick Valentijn, ed. *De Wederopbouw. Haagse Gids voor Architectuur en Stedenbouw in de periode 1945-1965* (Den Haag: DSO, 2002), 139-140.
53. "Kantoorgebouw BIM/Shell," *Architectuurgids.NL*, URL:https://www.architectuurgids.nl/project/list_projects_of_architect/arc_id/10/prj_id/765 ; R.S. Sennet, *Encyclopedia of twentieth century architecture*, Vol. 2 (New York/London: Fitzroy Dearborn, 2005), URL: http://architecture- history.org/architects/architects/OUD/biography.html; E. Taverne, D. Broekhuizen, *Het Shell-gebouw van J. J. P Oud. Ontwerp en receptie / J. J. P. Oud's Shell building. Design and reception* (Rotterdam: NAi uitgevers, 1995); Lewis Martin, "The Shell Building and all its Crimes," *Declad*, April 25, 2021, URL: https://www.declad.com/the-shell-building-and-all-its-crimes (Accessed October 5, 2024).

54. Joke, Reichardt, "Reis door een land vol wonderen. Architect Willem Marinus Dudok op lezingentour door Amerika, 19september – 18 december 1953": M.A. thesis (History of Art), Utrecht University, 2018.
55. "De wijk Zorgvliet, Parel aan de kroon van Den Haag," *Zorgvliet.net*, URL: https://zorgvliet.net/geschiedenis/ .
56. Crimson Report 2021, 52-60
57. Crimson Report 2021, 249-250.
58. "Grote opluchting bij politiek en Hagenaars na afblazen verhuizing Israëlische ambassade," *Omroep West*, November 13, 2018, URL: https://www.omroepwest.nl/nieuws/3723428/grote-opluchting-bij-politiek-en-hagenaars-na-afblazen-verhuizing-israelische-ambassade (Accessed August 31, 2024); "Ambassade Israël verhuisd naar Johan de Wittlaan," *Omroep West,* July 31, 2020, URL: https://www.omroepwest.nl/nieuws/4084176/ambassade-israel-verhuisd-naar-johan-de-wittlaan (Accessed August 31, 2024).
59. "Europol: je kijkt hier tegen een tankmuur aan," *Herinneringsroute Atlantikwall Den Haag* (Museon-Omniversum: The Hague, 2015), URL: https://atlantikwalldenhaag.nl/nl/point-of-interest/aw7 (July 10, 2024).
60. "Zorgvliet en World Forum", Map 3.2. "Gebiedsvisie: Naar een Archipel van Binnenduinparken" (Ch. 5 Agenda 2014-2018, subhead A). *Gemeente Den Haag* (bestemmingsplan, November 1, 2016), *Planviewer,* URL: https://www.planviewer.nl/imro/files/NL.IMRO.0518.BP0279DZorgvliet-40ON/t_NL.IMRO.0518.BP0279DZorgvliet-40ON.html (Accessed September 2, 2024). Unfortunately though, the explanatory notes to this area plan give the impression of an unsatisfactory compromise, revealing that according to provincial regulations, part of the planning area will still remain an office concentration area.
61. "Voortgangsbericht The Hague World Forum" (2006); "Zorgvliet en World Forum", Image 2.9 "beeld uit landschapsontwerp World Forum, DS Architecten," Gemeente Den Haag, (Bestemmingsplan, November 1, 2016), *Planviewer*, URL: https://www.planviewer.nl/imro/files/NL.IMRO.0518.BP0279DZorgvliet-40ON/t_NL.IMRO.0518.BP0279DZorgvliet- 40ON.html#_5.4_Toelichtingopderegels (Accessed September 2, 2024). "World Forum Den Haag openbare ruimte (2005-2014)", DS landschapsarchitecten, URL: https://www.dsla.nl/projecten/world-forum/?open=open#post-1
62. *Bestemmingsplan Zorgvliet en World Forum,* Gemeente Den Haag (2015), Hfdst. 7 Overleg en inspraak, 7.1. Art. 3.1.1. Bro- overleg: Europol 30.1-2 / UN ICTY 33.1-2, *Planviewex*, URL: https://www.planviewer.nl/imro/files/NL.IMRO.0518.BP0279DZorgvliet-50VA/t_NL.IMRO.0518.BP0279DZorgvliet-50VA.html (Accessed 02-09-2024). From January 2024 this Plan is replaced by the new Environment and Replacement Act.
63. NoRA, "International Zone The Hague World Forum / Sorgvlietpark."(*Network of Research Architecture*, 2020), 5, 9, 35. Accessible via the following platform: https://www.collegevanrijksadviseurs.nl/adviezen-publicaties/rapport/2020/03/10/yi-2019-international-zone-the-hague . Commissioned by Rijksbouwmeester/Rijksvastgoedbedrijf, Min.

BZK within the Young Innovators Framework 2019, it remarkably for a study aiming to strengthen the accessibility, quality and identity of the area, it does not assess the iconic role of the ICTY/IRMCT but identifies Churchillplein 1 only with the sharing partner ADC.

64. NoRA, "International Zone", 67, 73, 79, 84-90.
65. NoRA, "International Zone", 41, 63. Churchillplein 1 is only identified on its maps as ADC, which only concerns its side wing, though it should also be mentioned that, in contrast to the fenced campus with "supersized mastodonts", a "public trajectory" is proposed that "includes the Zorgvlietpark which we envision as an unequivocally public, porous and open park that one can cycle and walk through", without any mentioning of its central site Catshuis, the MP's residence; Ibid., 16, 41.
66. NoRA, "International Zone", 41, 71-74. Compare for the big-tech logic of such instrumentalization: Shoshan Zuboff, The Age of Surveillance Capitalism. The Fight for a Human Future at the New Frontier of Power (London: Profile Books, 2019).
67. Quotes from Pieter van Maals, "Buurt van ambtenaren wordt levendige stadswijk," *De Standaard*, June 26, 2024, URL: https://www.standaard.be/cnt/dmf20240625_96197524 (Accessed September 2, 2024).
68. Van Maals, "Buurt van ambtenaren"; "De Europese Wijk, Big Bang! Cityforward," *BouwmeesterMaitResearcharchitecte* (BMA Brussels), May 22, 2023, URL: https://bma.brussels/nl/cityforward/ (Accessed October 6, 2024); "Cityforward—Belliard Treves. Transformatie van een kantoorgebouw tot woningen," Bouwmeestermaitrearchitecte, *BMA Brussels*, June 19, 2024, URL: https://bma.brussels/nl/cityforward-belliard-treves/ (Accessed October 6, 2024); Lukas Vanacker, Overheden redden miljoenendeal rond kantoren in Europese wijk, *De Tijd,* April 29, 2024, URL: https://www.tijd.be/ondernemen/vastgoed/overheden-redden-miljoenendeal-rond-kantoren-in-europese-wijk/10543151.html#:~:text=Overheden%20redden%20miljoenendeal%20rond%20kantoren%20in%20Europese%20wijk,-Kopieer%20link&text=Het%20ambitieuze%20fonds%20Cityforward%20heeft,de%20Europese%20wijk%20in%20Brussel.
69. Peter Blake, *Form Follows Fiasco: Why Modern Architecture Hasn't Worked* (Boston: Little Brown, 1978), 103, and compare "Form follows fiasco," Steve Grossi (May 10, 2011). URL: https://www.stevegrossi.com/on/form-follows-fiasco .
70. Jane Jacobs, *The Death and Life of Great American Cities* (New York: Modern Library, 50th. ann. ed. 2011, orig. 1961), and see for her crusade against Le Corbusier and Moses, the added introduction of *The New York Review* founder Jason Epstein to this 2011 ed., in Ibid., ix-xix.
71. Scott, *Seeing Like a State*, 132-3.
72. James C. Scott, *Seeing Like a State. How Certain Schemes to Improve the Human Condition Have Failed* (New Haven/London: Yale UP, 2020, 1st. ed. 1998), 138.
73. Blake, *Form Follows Fiasco*, 96.

74. Blake, *Form Follows Fiasco*, 116.
75. Tilden, *Interpreting*, 34.
76. Spijkers, "Legal Monuments," 120.
77. Tilden, *Interpreting,* 34
78. Maya Hasan, 'Adaptive Reuse of Historic Buildings towards a Resilient Heritage', in Kabila Hmood, Ed. *Conservation of Urban and Architectural Heritage—Past, Present and Future*. (London: IntechOpen, 2023). URL: https://www.intechopen.com/chapters/86828.

Chapter Three: From Srebrenica to The Hague

Abstract: Considering the role of The Hague as City of Peace and Justice, the absence of a memorial as a global symbol of international justice at the site where all the existing information has been gathered and legally processed is striking. That even today in the Netherlands, no official policy has been developed for public education and commemoration of the largest and bloodiest European war since World War II is even more surprising given that the country was directly involved in at least three ways: as one of the most ardent supporters of military intervention in Bosnia and Herzegovina; as the host country of the ICTY, and as receiving country for tens of thousands of Bosnian and other Yugoslav refugees, with Srebrenica meanwhile reverberating as a national trauma. These issues are the subject of this chapter, the first and longest part of which deals with the Bosnian war and the events that led to the genocide in Srebrenica, the failed UN peacekeeping mission of Dutchbat, and the legal processing of the UN Yugoslavia Tribunal. The second section examines the evolution of the ICTY at Churchillplein 1 in The Hague, and the reciprocal influence between the ICTY and the growing global media attention it attracted. The final section will address the legal significance and impact of the Hague Tribunal as a legal monument for the development of international criminal law in a new relation to human rights and the principle of transitional justice.

Laarse, Rob van der, Charles Jeurgens, Sabina Tanović. *The Former "Yugoslavia Tribunal" as Monument of Justice: History, Heritage and Memory of the ICTY and IRMCT in the City of Peace and Justice*. Amsterdam: Amsterdam University Press, 2025.
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"The Yugoslavia and Rwanda Tribunals were the Nuremberg and Tokyo Tribunals of our time, and they raised exactly similar concerns, but now they did so against the very human rights standards which had been perhaps the greatest international achievement of the preceding forty years."[1]

Developing Justice in the Bosnian War

Towards Srebrenica

Despite the short-lived conviction that the fall of the Berlin Wall had put an end to the history of great ideologies and opened the future for liberal democracy, the outbreak of the Yugoslav Wars brought a rapid realization "that terror had not been banished from the European space."[2] In 1992, the momentous account and images of the Omarska, Trnopolje and Keraterm camps near Prijedor, the area with the second highest number of civilian casualties from the Bosnian War, served as a wake-up call for the international community.[3] Both NATO and the UN Security Council responded with an unusual call for military intervention in the Balkans, recognizing that they faced new challenges as the "new world order" was undermined by a resurgence of extreme nationalism in the Balkans.

The UN immediately defined what was happening in 1992 as "ethnic cleansing," a struggle not between countries, but between communities for territory, language, religion, and identity. The UN Commission of Experts established pursuant to Security Council Resolution 780 (1992), investigating violations of international in the former Yugoslavia, in its "Prijedor Report" (Annex 5 to its 1994 Final Report), defined ethnic cleansing as a planned political and military strategy of destruction as the core of "a general climate in which all non-Serbs as such, not merely individuals in their personal capacity, were targeted."[4] Historians used the term both in the sense of a first step toward mass murder and as an overarching concept for war crimes, crimes against humanity, and even genocide of all kinds. Jurists, meanwhile, were increasingly aware that the ongoing violence, demanded the criminal prosecution of individuals—as at Nuremberg, but for new crimes of purification, destruction, and genocide that also needed to be more clearly defined in law. This became one of the legal tasks for the ICTY.[5]

As international experts noted, the purge of the non-Serb population in Prijedor was not intended to restore the unity of the Socialist Federal Republic of Yugoslavia, but to create a "Greater Serbia." This was also the first series of atrocities for which Bosnian Serb President Radovan Karadžić, leader of the army of the self-proclaimed separatist Republika Srpska (BPC/VRS) and the

Figure 3.1. Dutch UN soldier walking through a war-torn occupied Srebrenica. Photo: M. Schutter. Collection Nederlands Instituut voor Militaire Historie, Facing Srebrenica.

Bosnian Serbian Army (BSA) Ratko Mladić, and Serbian President Slobodan Milošević, would be indicted at The Hague in 1995. As the first defendant before the ICTY a year later, Duško Tadić would be sentenced to 20 years in prison in 1997 for what according to the Nuremberg principles were considered crimes against humanity, which he committed in the Omarska camp.[6]

For both the United Nations and European countries, the Omarska images necessitated action. In the Netherlands, which at the time was a leading supporter of international human rights policy, the parliamentary committee returned from recess to urge the government to support intervention.[7] Strongly influenced by the atrocities and based on a firm belief in the international law, the Dutch government welcomed not only the possibility of a Yugoslav UN tribunal in The Hague, but also sent several F-16 fighter planes and a special battalion of around 1,000 light infantry from the newly formed 11th Airmobile Brigade to Bosnia under the name of Dutchbat. Per the UN mandate, the battalion was placed under the command of UNPROFOR, which was established in 1992 to protect some 30,000 residents and tens of thousands of refugees in the enclave of Srebrenica—civilians targeted as Bosnian Muslims (based on their names). Following threats of air strikes and a failed attack by Mladić's VRS, this was the first of several so-called "Muslim enclaves" to be declared a "safe area" under UN protection, "which should be free from any armed attack or any hostile act."[8]

However, while this peacekeeping strategy was well suited to military and humanitarian cooperation, it seemed to be based on moral rather than military considerations. After all, the around 600 lightly armed Dutch soldiers, on a mission that lacked the mandate and resources for conducting warfare, were unlikely to defend the enclave against the tens of thousands of soldiers of the heavily armed combat units of the VRS, the BSA and the now mainly Serbian Yugoslav National Army (JNA). The security of the UN "blue helmets" would therefore, in the event of an enemy attack, ultimately be guaranteed by NATO air support from the main troop-contributing countries, such as France, England, the Netherlands, together with the USA, which did not participate in the peacekeeping mission with ground troops. Although they were stationed at a NATO base in northern Italy, this seemed to be a sufficient security guarantee. Still, everyone, from top to bottom, and especially in the political chain of command, took it for granted that the VRS would never declare war on UNPROFOR. According to the Geneva Convention, this was prohibited within a demilitarized zone. This general reliance on the local international presence eventually proved fatal.

The UN's security strategy ignored the fact that Srebrenica, along with surrounding villages such as Potočari, was an important center and refuge for armed Bosnian militias.[9] Like Sarajevo, Srebrenica had for two years been a stronghold of the Army of Bosnia and Herzegovina (ABiH), whose 28th Brigade led by the police officer Naser Orić enjoyed strong popular support. It arose in response to the extremely violent Serbian ethnic cleansing campaign of the Drina offensive in the spring of 1992. Bosnian Serbs and the Serbian army marched together to liberate eastern Bosnia from "Turks" – a derogative depiction referring back to Ottoman empire—and integrate the entire border area into what was planned as a new, integrated Serbia. A series of horrific massacres then drove most of the targeted Muslim population to Srebrenica, from where the Muslim Brigade of Naser Orić, driven by the famine in the enclave, began looting and destroying surrounding Serbian villages. Eliding the impact of their own genocidal campaign, Serbian propaganda portrayed this as a repetition of the genocide against the Serbs in World War II, the scar of "eternal suffering" that cried out for revenge. Bosniaks[10] still outnumbered Serbs in Bosnian territory, and a year later, despite new Serbian attacks on Srebrenica, Orić as commander of the ABiH forces in the Srebrenica area in Eastern Bosnia reached the heigh of his power.[11]

The powerful position of Orić's brigade, especially after Mladić's failed attack on Srebrenica in April 1993, may explain the successful UN agreement with the VRS and the ABiH on establishing a demilitarized zone. However, the VRS did not withdraw from its fighting positions as planned,

and accused the ABiH of hiding weapons, even though Orić's Division had already stored its heavy weapons in Dutchbat's weapons depots. Dutchbat itself was operating within UNPROFOR as an independent unit with a dual command structure of the UN and the NATO Airmobile Brigade as provided by the Dutch government. However, its mission failed when the VRS withdrew from the agreement, and attention soon drifted away. Like the outside world, the UN High Command and the Bosnia and Herzegovina Command lost interest in Srebrenica and the other safe areas, refocusing instead on the country's capital, Sarajevo.[12] The Siege of Sarajevo by the JNA and the VRS had begun in 1992 and would last four years, despite the fact that the city had also been declared a UN safe area in 1993. The total blockade, with devastating bombing and sniper shelling of the city, killed of nearly 12,000 people – among which the ICTY would later indict Karadžić, Mladić and Bosnian Serb General Galić for terrorism.[13]

When Mladić also blockaded troops and transport supplies of the Dutch UNPROFOR contingent in April 1995, the humanitarian situation in Srebrenica quickly became catastrophic. Foreign intelligence agencies had no knowledge of Mladić's operational orders, sent to the VRS Drina Corps on July 2, for the elimination of the enclave, and there was no indication of an advance by the Bosnian Serb army, nor from Karadžić's Directive 7 of March 8 from Pale, which would later serve as key strategic evidence for the genocidal intentions of the "joint criminal enterprise to destroy the Bosnian Muslim population."[14]

From a Bosnian Serb perspective, there was a danger of an ABiH corridor to the ABiH high command in Tuzla, to which Orić's headquarters had previously been moved. To Mladić's own surprise, however, the around 6,000 ABiH troops offered little resistance when the VRS advanced on the enclave as most of them had fled the enclave together with most male civilians. However, the advance of the VRS did not meet with NATO air attacks either. The UN (and national governments) did not want to endanger the lives of hundreds of UNPROFOR hostages. In the wake of NATO bombing of VRS ammunition depots in Pale, the residence of the wartime government of the Republika Srpska near Sarajevo, these hostages were used as human shields to prevent attacks on Bosnian Serb positions. Among them were also several Dutch UN observers, followed by more than thirty Dutchbat soldiers who were taken hostage during the VRS attack on Srebrenica, which effectively prevented NATO air support.[15] The UN High Command in Zagreb rejected all repeated requests for air support since 6 July, just as it did a month earlier when the VRS captured its first Dutch observation post. This had already prompted the commander of the Airmobile Brigade to send two "alarm letters" on June 4/5 to both the UN leadership in Sarajevo and to the military

staff in The Hague. The only chance of survival of the enclave lay, in his view, in a "robust" presence of UNPROFOR with the willingness to act militarily against the Serbian blockade, "and given the past, it is self-evident what else could happen to the residents. All refugees will be driven north or killed."[16]

The Genocide

Meeting virtually no serious resistance from the ABiH and UNPROFOR, 17,000 VRS troops began their advance on Srebrenica on July 6, and within three days were able to capture all ABiH lines and Dutchbat field posts.[17] The town was overrun in the next few days. On July 11, 1995, during the Fall of Srebrenica, more than 20,000 of the approximately 30,000 inhabitants and refugees fled to the vicinity of the Dutchbat compound, and some 5,000 of them were allowed to take refuge inside.[18]After his unsuccessful requests for NATO air support, Dutchbat commander Thom Karremans had to surrender the enclave to Mladić that same day.

Over the following days, UNPROFOR assisted in the departure of the thousands of Srebrenica refugees outside the fences for whom VRS units (Drina Corps) had buses arranged. About 23,000 women and girls were allowed to leave, but Serbian paramilitaries (Scorpions) separated them from the around 2,000 men and boys in and around the compound, who were taken away to be screened for arms. It was assumed that Mladić's army would take revenge on "war criminals", but it seemed difficult to imagine anything other than prisoner-of-war camps under the Geneva Convention for anyone deemed to be a fighter only because of gender and age. No one appears to have expected ordinary citizens to be in danger—or that UN peacekeepers, who were only allowed to defend themselves and not civilians, would become "passive witnesses" to genocide.[19]

What Cees Wiebes calls "cognitive dissonance" held sway: an inability to dare think about what one might have known.[20] What should certainly have been remembered was the lesson learned from the bloodiest episode of the Bosnian Serb ethnic cleansing campaign in spring 1992. This was the massacre in the Drina border town of Bratunac near Srebrenica. There, on May 9, 1992, 4,000 to 5,000 Bosniak civilians had been rounded up from their homes or in the woods, and driven into the sports stadium, where the men were separated from the women and children. The latter were deported by bus to areas designated as "Muslim". Some 700 men were then taken to a school, where they were humiliated by being forced to sing Chetnik songs, then tortured and beaten to death. Their bodies were dumped in mass graves and the Drina River.[21]

This must have served as a lesson. However, the common belief that more than 8,000 victims of the Srebrenica genocide were handed over

directly from the compound is misleading. Thousands of Bosniaks inside the gates had to leave on the second day, but most of the victims were deported from outside by the Drina Corps and not "under the eyes" of Dutchbat—an image persistent in the media but "clearly incorrect," in the 2002 assessment of historian J.C.H. Blom. The image, however, still exists as a frame.[22] On the other hand, it is also inconceivable that nothing was heard of the approximately 100 to 400 men massacred in Potočari; murders that, according to former UN interpreter Nuhanović, were communicated to the battalion commander even before he decided to extradite some 350 Bosniaks who had taken refuge at the base. The only survivors were those with UN permits, such as Nuhanović, who witnessed his family's departure from the compound, the last time he saw them.[23]

Still, mostly women and the oldest men from Srebrenica had fled to Potočari, while most of the boys and men followed in the footsteps of Orić's brigade, which had left the city a few days earlier before it fell. This outbreak made the VRS nervous of surprise attacks by Bosniaks, which may also have been a motive for revenge.[24] Many Bosniaks were rounded up during "death marches" through the woods. and killed dozens of kilometers away in mass executions, with their bodies were scattered dismembered to prevent identification. They were then reburied in a planned covert operation with the cooperation of the civil authorities over the next few months.[25] Some male survivors, however, did reach the displaced persons camp near Tuzla, and they would later be able to testify alongside the women of Srebrenica who had been transported there from Potočari.[26]

When Mladić's right-hand man, General Radislav Krstić, commander of the Drina Corps (the VRS fighting force responsible for the major massacres), stood accused in The Hague, so many horrors came to light about the mass executions and torturing following its attack on the town of Srebrenica in the weeks after 11 July 1995, that on 2 August 2001 he became the first war criminal in Europe to be sentenced by the Trials Chamber of the ICTY to 46 years in prison for the crime of genocide. It was a robust decision, because genocide is legally difficult to prove. Proof requires, as here, evidence of the proven intent to destroy a group in whole or in part. Although Krstić's role was reconsidered as "more of an aider and abettor to genocide," the ruling of genocide was upheld by the Appeals Chamber in April 2004.[27] This was also the first statement about the genocide in Srebrenica. However, the explanatory statement also attached particular importance to the symbolic significance of the place where these atrocities were committed: "Srebrenica—the name of a town which has become synonymous with the conflict that devastated the former Yugoslavia. It is a name which

Figure 3.2. Evidence of the shooting in the Dom Kulture in Pilica (Bajina Bašta), near Srebrenica, Bosnia and Herzegovina. Exhibit P02103 in the ICTY Trial Popović et al. At least 1,735 Bosnian Muslims, brought from Bratunac, were killed at the Pilica Cultural Centre, the Kula School, and the Branjevo Military Farm. Photo ICTY.

immediately calls to mind thousands of people subjected to siege, famine and deprivation of everything—even water and time to breathe. The name of an enclave which the United Nations declared a safe area, and which fell almost without a shot being fired. Srebrenica—a name which conjures up images one would prefer not to see." The judgment also considers the dreadful afterlife of the survivors, because "Srebrenica is also a name for a post-traumatic syndrome, the syndrome displayed by the women, children and old people who did not die and who, ever since July 1995, six years now, still have no news of their husbands and sons, fathers, brothers, uncles, grandfathers. Thousands of amputated lives six years later, robbed of the affection and love of their kin now reduced to ghosts who return to haunt them day after day, night after night."[28]

However, Srebrenica was not the first or only event linked to genocide. As early as 1992, the prosecution was convinced of sufficient evidence regarding the aforementioned Bratunac massacre. That crime was committed in the same place where Bosnian Serbs took the remaining men and boys from Potočari on July 13, 1995, to be executed and buried in mass graves the next day, before reburial with official cooperation in thirty-three secondary graves dispersed around Srebrenica, hiding the horrors.[29] But autopsies of dead bodies later showed a planned covert operation of mass executions

as far as a hundred kilometers away from Srebrenica. While this must have happened within less than a week after July 11, most of the bodies were dismembered and reburied in secondary, tertiary, and more mass graves over the next months. To avoid identification, and in full cooperation with the civil authorities, a "genocide without corpses" was created. It was "a crime on top of a crime," as ICTY crime investigator Jean-René Ruez put it.[30] But the trials in The Hague showed that precisely because of these systematic executions and cover-ups, those inciting genocide could be brought to justice.

As in the Krstić case, the first indictment against Karadžić and Mladić in July 1995 provided demonstrable evidence of their intended and planned degradation of the Bosniak population in eastern Bosnia three years earlier. The ICTY indicted the accused for the crime of genocide (among other crimes), and both were convicted and sentenced to life imprisonment in 2016 and 2017. Mladić's case was also the last verdict of the ICTY before its closure on December 31, 2017.[31] After this, the IRMCT took over the appeal hearings, including that of Mladić in 2021. Retrials were still ongoing until 2024 – the last case being that of the VRS officer drafting the text of Directive 7.[32] Accordingly, the former president of the ICTY, Carmel Agius, in his new role as president of the IRMCT, declared that the closure of the ICTY did not "signify the end of the journey," because "the Mechanism [would] continue to play a crucial role in safeguarding [its] legacies, including through making accessible the vast judicial archives of the two Tribunals and the Mechanism."[33]

Srebrenica, a National Trauma

As mentioned in the introduction to this report, the global shock of what transpired in Srebrenica significantly strengthened the international community's support for the Tribunal. Because it was felt as a defeat of the Dutch UN peacekeepers, however, its impact on Dutch politics and public opinion has for decades been very different. Following an unsatisfactory parliamentary inquiry into the disastrous failure at Srebrenica and the question of responsibility, the Dutch government commissioned a thorough historical investigation into the background of the Yugoslav Wars and the fall of the enclave, which was published in April 2002 as the NIOD Srebrenica Report.[34] This 3,400-page account (in addition to many supporting studies) of what was then called a massacre and tragedy comprehensively describes and analyzes the complex historical, political, international, and local context, and concludes that the reasons for its failure are to be sought in the shortcomings of the UN mandate, the flawed communication and command structures, and the risks inherent in a peacekeeping policy that was moralistic rather than realistic. Based on these considerations, and besides

the prime culpability of the Bosnian Serb perpetrators and the impotence of the Dutchbat soldiers, the report held both the UN High Command and the Dutch state politically and militarily responsible for the mission.

These findings of the NIOD report immediately led to the resignation of the Dutch cabinet of Wim Kok (Kok II), which thereby assumed full political responsibility, but without admitting guilt, even though the socialist minister Jan Pronk also resigned in recognition of his personal failure. Pronk had already used the word genocide on Dutch television during his early visit to Tuzla on July 15-17, 1995, when the survivors of the death marches from Srebrenica arrived, and Dutchbat soldiers from Potočari were interviewed by investigators from the ICTY.[35] Apart from Pronk's lone dissenting voice, defense minister Joris Voorhoeve and UNPROFOR's Sarajevo staff officer Cees Nicolai, the military staff, the government and the NIOD report all studiously avoided the term.[36] However, it was not the authorized national narrative of the NIOD report that ended public in the Netherlands about Srebrenica, as has been suggested,[37] but the way the parliamentary debates in 2003 finally framed the political responsibility of the Dutch State in "splendid isolation" as "we are not to blame," an innocent spectator instead of self-critically expressing its own involvement in international context.[38]

This political outcome of what was called the "Srebrenica crisis," seven years after the fall of the enclave, seemed to have paid off an unacknowledged debt. After the resignation of the Kok II cabinet a parliamentary debate on the political conclusions to be drawn was delegated to a parliamentary inquiry, the Bakker Commission (2002-2003), which did not shy away from the term "genocide" in its report, but basically supported the government's view that "the Netherlands was on its own in Srebrenica."[39] As such, In the House of Representatives, most MPs agreed that the outgoing Kok II cabinet had already expressed enough regret by its resignation (only a few weeks before the end of its term), and official apologies as asked for by the Green-Left party were considered "an empty gesture."[40] Offering the illusion of a final debate on the "impossible mission" with "national innocence" as consensual outcome[41], this ruling was decisive for the discussion about the role of Dutchbat in Srebrenica and the Dutch involvement and responsibility in the fall of the enclave for the following decades.

How can we explain the decline in Dutch interest in the proliferation of war crimes trials at The Hague? The rapid disappearance of Srebrenica from political debate was not simply a product of political maneuvering to avoid the moral dilemma of impotence or failure. The Dutch political climate had changed dramatically after the murder of the populist politician Pim Fortuyn in May 2001, one month after the resignation of the Kok government (Kok

II), and of the intensification of the American "war on terror" after 9/11, with new debates about Dutch military involvement in Afghanistan. Amidst all this, the condemnatory narrative of the "failed" peacekeeping mission seems to have faded from public attention, and subsequent Dutch cabinets tried to shift the blame entirely to the UN mandate and UNPROFOR high command.

Remarkably, Dutch public interest waned just as the Tribunal was about to achieve unprecedented success in the judicial process against the highest military and political leaders, including a sitting head of state, proving that impunity was no longer the norm. The result was a split national consciousness. On the one hand, the Yugoslav Wars, with the impossible role of Dutchbat in mind, seemed to most Dutch people to be limited to the genocide in Srebrenica. And this was, after all, also the most important crime first found by the ICTY in 2001, and the first time that the UN Genocide Convention of 1948 had been applied in Europe (after a first conviction in the Rwanda Trials three years before). Still, after the media and politicians withdrew from the international strategic debate about the lessons that could be drawn from the UN's failed peacekeeping mission, Srebrenica turned into a national trauma, a black page in Dutch history that continued to haunt public debate, and that was therefore all the more forcefully suppressed.

A New Chapter: Justice and Memory

As the first major conflict on European soil since World War II, the Yugoslav Wars were, understandably, framed from the perspective of Nazi atrocities, and this marked the emergence of the symbolic role of the Nazi holocaust as the paradigmatic genocide. In addition to the rapidly growing influx of refugees to European countries, the worldwide shock of Srebrenica in 1995 would promote the recognition of the Holocaust and opposition to racism and ethnic cleansing as constitutive of a new global and European policy of remembrance. After indicting perpetrators of genocide beginning in 1995, the ICTY would also become the first International Criminal Court to condemn this, the largest genocide in post-World War II Europe as a "crime against all humanity" in 2001/4, with the damage "felt not only by the group targeted for destruction, but by all of humanity."[42]

This verdict was adopted by a first European Parliament "Srebrenica resolution" in 2005, which addressed the recognition of Srebrenica as an act of genocide declared by the ICTY as having taken place in a UN proclaimed safe haven, and therefore standing as "a symbol of the impotence of the international community to intervene in the conflict."[43] A second EU Parliament Srebrenica resolution in 2009 then called on all EU member states to commemorate the genocide in Srebrenica annually on July 11.[44] As such, it

followed the example of the 2005 European Parliament resolution on Holocaust remembrance, anti-Semitism and racism, which, in response to the 2000 Stockholm Declaration encouraged the designation of 27 January "EU-wide" as European Holocaust Memorial Day.[45] This also served as a template for another EU parliament resolution in 2009 calling for the recognition of crimes of Communism and Nazism to be equated as comparable "crimes against humanity," and proclaimed August 23 a European Day of Remembrance for the victims of totalitarian and authoritarian regimes.[46] It was followed in 2015 by a third Srebrenica resolution, twenty years after the genocide, which again stressed the importance of the work done by the ICTY, though reiterating "that greater attention needs to be paid to war crime trials being prosecuted at domestic level", in the prospect of EU integration mainly as an *instrument* "to promote reconciliation and to overcome hatred and divisions" in the region.[47]

This was a new departure (although many historians considered it a controversial one because of a risk that states might politicize history using memory laws) that led to increasing competition between the "western" Holocaust paradigm and an alternative Eastern European "occupation" paradigm. For while memories of terror are not strictly European, terror in Europe has spawned a European space of remembrance that would at the same time be constantly challenged and redefined.[48] In this way, the three EU-wide memorial days form a symbolic trinity with "Auschwitz," "Prague" and "Srebrenica" as the embodiment of fundamental European values of peace and justice. Uniquely, they stand not for what Europe is *proud* of, but for what it is *ashamed* of and must overcome. The real danger, however, lies not in the politics of memory but in the authority of historical inquiry and international law, which is increasingly being limited by ethnic and cultural identity politics from all political directions.

Although at first glance not specifically related to the Srebrenica genocide, a policy letter from the Dutch Ministry of Foreign Affairs to the Second Chamber of Parliament dated November 8, 2022 mentions that it "is examining together with a representative number of like-minded EU member states the recognition of genocides, and under what conditions joint recognition of genocides can be passed over." To this it proposes a broad perspective, as to which "judgment of international courts or tribunals (criminal courts), scientific research, and/or findings by the UN Security Council are important in this regard," even though, considering the complexities and political sensitivities, the MFA letter expected unanimous recognition as genocide in most cases "a long-term affair."[49] The same passage can be found verbatim in the 2021 coalition agreement of the Dutch government of Mark Rutte (Rutte IV), and it seems to reflect a wider strategy of EU and UN member states regarding dealings

with the sensitive and contested issue of genocide. The recent (May 2024) UN declaration on the establishment of an International Day of Reflection for the Genocide in Srebrenica on July 11, proposed by Germany and Rwanda and backed by more than thirty UN member states, including all former Yugoslav countries apart from Serbia, shows the successful outcome of such cooperation. A month earlier, the director and a curator (themselves genocide survivors) of the Srebrenica Genocide Memorial Center addressed the United Nations General Assembly to support the upcoming resolution on establishing the Srebrenica Memorial Day.[50] Despite strong opposition from Russia and Serbia, and Hungary's "rupture of the EU front," and the abstentions of Greece and Slovakia—which also "spoiled the [EU's] united front in support of the resolution"—the call for UN member states to publicly acknowledge and condemn the denial of the genocide won the vote in the General Assembly.[51]

Yet even in illiberal states this policy of denial – which is itself the main background for the EU's support for the Srebrenica Memorial resolution—is not the only direction of how memories are currently being transformed. Even in Serbia, a younger generation of commemorative activists is working to overcome the grim perspective of "unwanted memories" after the 2003 assassination of Prime Minister Zoran Đinđić put a violent end to Belgrade's turn towards the EU. Countering the much-reiterated official nationalist state narratives concerning the war period, alternative "desired memories" appear in exhibitions and films, and on digital platforms.[52] Disseminating other war narratives that have been actively excluded in recent decades, one source has proved surprisingly rich: the long-silenced evidence archived by the ICTY. Questioning the limits of artistic imagination in dealing with the traumatic past, the Belgradian commemorative artist Vladimir Miladinović in his 2020 *The Notebook* even created an alternative, counter-archival reading of the 800-page diary of Serbian "hero" Ratko Mladić, found in one of his Belgrade homes in 2010, reworking it page by page as legal evidence for the ICTY.[53] Such an "agonistic" rereading of the past offers a more reflexive and multidirectional way of rethinking politicized conflicts, escaping the antagonistic perspective of perpetrators and victims. By acknowledging social responsibility for the suffering of others, citizens and scientists outside the circle of victims can also feel responsible as "implicit subjects," to face all such hateful crises and catastrophes and, in the words of Hayden White, ask "what has happened and what must be done."[54]

This may also be seen as a wake-up call for the Netherlands, the country of international law and human rights, where dealing with the still open wound of Srebrenica seems in recent decades to have been delegated mainly to the "generation after" from the diasporic survivor communities. For the

Dutch attitude towards the genocide does indeed still hark back to old reflexes that even during the Yugoslav Wars were already being described as oscillating between indifference and "feeling trapped" by the international community.[55] Whereas Dutch politicians still feel "betrayed" by the UN institutions, "which they have always wholeheartedly supported," three decades later many Dutchbat soldiers are still fighting for recognition of their own suffering by the Dutch government and against the public image they cannot escape.[56]As witnesses to the fall of the enclave, many Dutchbat soldiers suffered for a long time from the negative image in the media of their 'impossible mission'.[57] In 2003, however, Minister Kamp of Defense declared the rehabilitation of Dutchbat III "a political fact" and expressed the hope that from now on, as he put it, "every soldier will be received with respect instead of condemnation".[58] Nevertheless, three years later the American embassy noted in a confidential cable to Washington that the minister —who made his first foreign trip to Bosnia "in an effort to bury the ghosts of the past"—still repeatedly called on the Dutch military to "put their failure in Srebrenica behind them." It suggested a certain desire for redemption by polishing Dutchbat's reputation by sending it to Afghanistan for a peace-*enforcement* mission, this time, which to the Embassy showed that the "emotions in Dutch society are still raw ten years after its military's failure."[59]

As recently as 2019, some twenty Dutchbat veterans sued the Dutch state, claiming rehabilitation, apologies, and symbolic compensation for their "impossible mission," because nothing had come of earlier promises by the Minister of Defense to map out their health and mental problems.[60] For indeed, the past did not pass. According to a 2022 report by the National Psychotrauma Center ArQ, three-quarters of veterans were still bothered by the former negative media attention about Dutchbat III as cowards, collaborators, racists or perpetrators. They rated as negative the limited mandate of the mission, the lack of support and aftercare from the Dutch army, and the feeling of being abandoned by the Ministry of Defense and the United Nations, in short, "the lack of appreciation and feelings of powerlessness, incomprehension, and frustration." Remarkably, some veterans argued that instead of political rehabilitation, it was much more important that the " real story" of the mission should finally be told in the media and in education: a story that is factually correct and in which the political decision-making, historical context and experiences of Dutchbat soldiers are discussed.[61]

Meanwhile, the victims had also pursued their case through the Dutch national courts. Also in 2019, the Supreme Court sentenced the Dutch state

to 10 percent liability (!) for the damage suffered by the surviving relatives of victims as a result of Dutchbat's shared responsibility for facilitating the deportation of the approximately 300 male Bosniak refugees staying at the Dutchbat compound in Potočari on July 13, 1995.[62] This was a case brought to court by the "Mothers of Srebrenica" ten years earlier. It is striking, however, that in 2015, the District Court of The Hague stipulated on appeal still a liability of 30 percent, there having been a 70 percent chance that the victims would still have been murdered if they had not been handed over but had nonetheless been found by the Bosnian Serbs. Nonetheless, although the UN enjoys impunity for its operations, the Court decided that the State could be held liable. Therein lies the importance of the recognition that Dutchbat had not done enough to protect the Bosniaks inside the compound, and "should have been aware of the possibility that genocide would be committed." It is also important that the court did not hold the Netherlands responsible for the fate of most of the men (and women) killed in Srebrenica, as they had not fled to the UN compound, but to the woods in the vicinity of Srebrenica. For the "Mothers of Srebrenica," the verdict failed on that basis, because they seek justice and accountability towards all victims. This question will be put to the European Court again.[63]

Thanks to the Dutch state's endless "muddling through" the complex sensitivities surrounding the failed peacekeeping mission, it now found itself confronted with the festering of the traumatic wounds of the genocide. In all these and other ongoing cases, the state faces the call for historical justice—a species of justice for which the national tort laws were of course never intended, so that the outcome is guaranteed to be unsatisfactory for all parties involved.[64] Other tools are needed to address genocide for witnesses and survivors suffering from these ghosts of the past. Hence the importance of two apologies: that made to Dutchbat veterans by Prime Minister Rutte in 2022,[65] and that offered by Minister of Defense Kajsa Ollongren at the Srebrenica commemoration at Potočari on July 11, 2024. Ollongren's speech in particular should be welcomed as a long-awaited breakthrough in the Dutch "international betrayal" narrative, as it holds out the prospect of a new policy of inclusive accountability. Referring to the crucial role of international law, since the only people responsible for the genocide "have now been tried by the International Criminal Tribunal for the former Yugoslavia in The Hague," Ollongren acknowledged the failure of the international community to protect the people of Srebrenica, and also "sincerely apologize[d]" that "as part of this community, the Dutch government share[d] the political responsibility for the situation in which this failure." No less significant was the Minister's outspoken support in Potočari on behalf of the Dutch

State for a national Srebrenica Genocide Memorial in The Hague, which, as a joint memorial project of relatives and veterans, emphasizes the difficult, but inextricable bond between Bosnia and the Netherlands.[66]

Legal Monument

"Sarajevo and Srebrenica remain iconic symbols of international failure to prevent and end violent conflict. They are seen as monuments to the 'humiliation' of Europe and the UN and the failure of UNPROFOR, the peacekeeping force on the ground," as UN official David Harland reflected in 2017 on the Bosnian war of which he had been an eyewitness.[67] What began with reports of mass killings and forced evacuations described as ethnic cleansing, would reach its height in Srebrenica with a massacre established as "genocide" by the ICTY and the ICJ in The Hague. Some 161 persons have been indicted (90 sentenced) by the ICTY and the Mechanism, 18 for war crimes, crimes against humanity, and the crime of genocide committed in Srebrenica. But no less important than bringing the perpetrators to justice, was the hearing of 4,650 witnesses who, for the first time on this scale, had a personal input into the legal investigation of crimes and truth-finding using their "true stories." And finally, there are lessons to be learned from the archived 2,5 million pages of transcripts of the court cases, which offer unprecedented insight into the role and danger of ethnonationalist normalization of violence against "others," lessons for post-conflict societies, but also for Europe as a whole.[68]

One of the main lessons to be learned from this is therefore the fundamental role of international law in peacemaking *and* peacekeeping. As described, this began with a conceptual and organizational fusion of two very different, if not contrasting, areas that became closely linked with United Nations resolutions since 1993. It is a miracle that the multitude of contacts between Srebrenica, Sarajevo, Zagreb, The Hague, Brussels, Washington, and New York, despite all failures and mistakes, has finally led to the development of a new world order based on international humanitarian and criminal law – however threatened and vulnerable it may be. In this sense, the former Yugoslavia tribunal in The Hague unites all the lines of military and humanitarian intervention that were ultimately brought together here. Not only have the main perpetrators been brought to justice, but also the atrocities and mass graves. For the fate of the numerous missing persons would be brought to light in the years to come by truth-finding and recognition as an instrument for reparation and recovery by

rendering justice. Regarding the latter – and apart from some extensive investigative and legal initiatives in the US and by the Bavarian court in Munich (Germany) immediately after the Prijedor massacres – the legal processing of the Bosnian War was almost entirely driven by the ICTY, particularly after the Srebrenica massacre, which it would rule genocide. Despite the initially low expectations of the Yugoslavia Tribunal as an ad hoc court of law (alongside the Rwanda Tribunal), a quarter of a century later it had grown into by far the most respected international criminal court in the field of peace and justice. Like the Nuremberg tribunal before it, it now serves as a model for other ad hoc tribunals and for the 1998 Rome Statute that entered into force with the 2002 establishment of the permanent International Criminal Court (ICC) in The Hague.

What is seldom mentioned, but certainly also contributed to its success, was the monumental building that the Dutch government made available to the ICTY in 1994. Although—or perhaps because—for many people the term monument is associated with memorials or fallen heroes on pedestals, it is important to emphasize once again that perspectives on monumental public buildings such as parliaments, municipal museums and criminal courts are also subject to change. They may be hailed as iconic for their monumental grandeur or considered controversial for being out of place in their surroundings or out of step with the times for their old-fashioned or "colonial" architecture.[69] Yet, as the jury of the architectural design committee for the permanent residence of the International Criminal Court (ICC) in The Hague in 2008 commented, above all these monumental institutions and organizations are equally defined by "the structures in which they are housed," which express the history, power, and virtues of the institutions that occupy them, and give them "an identity that can shape public opinion."[70] As their "public face," international court buildings are more than just functional structures, but also symbolic markers of international law.[71]

It is therefore not surprising that the Peace Palace in The Hague, the seat of the ICJ, was the first Dutch institution (together with the Holocaust Memorial Camp Westerbork) to receive the European Heritage Label in 2013. The European Commission praised it as one of Europe's most important memorial sites, which, as the embodiment of international law, also promotes its values through visitor programs and tours that shed light on the history of "the Palace," its interior, and the work of the two courts in resolving international conflicts by the principle of "peace through justice."[72] For, the processing of war crimes are high on the EU's agenda, especially for the region, which is still dealing with denial, because as former ICTY prosecutor Serge Brammertz noted, "what has been established in the courtroom must

be taught in the classroom."[73] Between the courtroom and the classroom, however, is the Hague archive of the Tribunal, and in order to support the experience of visitors to the trial site, we need to take into account the importance of the "sense of place" for the victim communities and other visitors, as will be discussed further in the following chapters.

In the context of our research, this brings us to the importance of a new meaning of the concept of monument as discussed in the theoretical introductory chapter of this report. Legal scholar Otto Spijkers recently argued in the case of the ICTY that while the international symbolic significance of the monumental courthouse "is considered crucial," the landmark rulings of the court "can be considered monuments themselves" too. Although the seat of the International Criminal Tribunal for the former Yugoslavia in The Hague was already registered as a protected architectural monument in 2009 under the old Monuments Act, this archival value should be pointed out in connection with its value as a *lieu de mémoire*.[74] The entire ensemble of the material building, its symbolic significance, and its legal, educational and documentary institutions, can therefore be understood as monumental in the broadest sense of the word. As "a building that proves that you can break the cycle of hatred through the law," to quote a recent Dutch newspaper column.[75]

Not only do the courtrooms and remembrance traces of the UN tribunal deserve international protection – so too do the unique and extensive archives of the ICTY/IRMCT tribunal in the monumental courthouse.[76] As archival scholar Eric Ketelaar notes, even since the Tribunal's closure, the ICTY archive still harbors the potential of "establishing truth, engaging with history and practicing memory—all of which may help communities in the former Yugoslavia and elsewhere to not only come to grips with their own past but to also acknowledge a past shared with neighboring ethnic and political communities." As a "legal monument, " it thus functions also as a "living archive," intended not only as a repository, but as a place of dispute and dissonance, "as a force for delegitimizing mystified and traditionalized memories."[77] Thus, we can speak of a Monument of Justice.

From AEGON to the ICTY: The Transformation of a Building*

The work of the International Criminal Tribunal for the former Yugoslavia left in its wake an extensive scholarly literature, discussing its contribution to the development of the international criminal law, its role in the

* This section is written by Petar Finci, MA.

societal processes in the countries emerging from the break-up of the former Yugoslavia, as well as detailed exploration of what the court did not do over its 24 years of existence. Less examined is the history of how the court came to occupy its iconic building in The Hague and how it transformed it from an office building into the first modern-day international criminal court. The following is an account of how this transformation took place.

The story begins in the spring of 1993 in the offices of the legal team of the United Nations Secretary-General, Boutros Boutros Ghali. The war in the former Yugoslavia was in its second year, having moved from Slovenia and Croatia to Bosnia and Herzegovina. The destruction of the Croatian towns of Vukovar and the UNESCO world heritage site Dubrovnik had been replaced in the news by the accounts of the Bosnian "ethnic cleansing," the term itself newly minted to describe the reality of systematic, brutal attacks on the undesired population with the aim of changing the demographic structure of targeted territories. For nearly a year, television viewers around the world had witnessed the daily spectacle of the military Siege of Sarajevo, a European capital which, less than a decade before, had appeared on the same screens as host of the 14th Winter Olympic Games. Elsewhere in Bosnia, the discovery of concentration camps for non-Serb civilians in the vicinity of the town of Prijedor had thrown into sharp relief the post-WWII promise of "never again." To complicate matters further, tensions between the ABiH and the Croatian Defence Council (HVO) in parts of Central Bosnia and Herzegovina led to a full-fledged war that lasted until the establishment of the Federation of Bosnia and Herzegovina in 1994.

The Secretary-General's team was busy drafting the statute of what would become the first international criminal court since the military tribunals established in Nuremberg and Tokyo by the victorious Allied states to prosecute the Axis leaders accused of committing war crimes in Europe and the Far East. Following repeated unheeded demands to the warring parties in the former Yugoslavia to uphold the established norms of warfare and comply with the obligations under international humanitarian law, the United Nations Security Council (UN SC) had passed a resolution to establish an international tribunal for prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991.[78] In the same resolution, the Security Council had requested the Secretary-General to submit a report on all aspects of the matter, including specific proposals for "the effective and expeditious implementation" of the decision.[79]

Understandably, the Secretary-General's team in its report devoted the most attention to matters pertaining to the issues crucial for the

establishment of the future international court, which were set out in the statute of the future tribunal, included as part of the report.[80] Having received suggestions and comments from 29 member states, as well as the non-member Switzerland, ten non-governmental organizations, and a number of national commissions of jurists, the report examined the legal basis for the establishment of the international criminal tribunal, and set out the articles of the statute defining the competence of the future court as regards the law it would apply, the persons to whom the law would be applied, its territorial and temporal reach, and the relation of its work to the national courts in the former Yugoslavia.[81] The statute also set out the organization of the international tribunal, including its three organs, the Chambers, the Office of the Prosecutor and the Registry, as well as their individual tasks, including investigation, pre-trial, trial, and post-trial proceedings.[82]

Satisfied that the substantive matter of law and proceedings was addressed, the Secretary-General's team turned their attention to the general provisions, including the discussion of the considerations related to the future seat of the Tribunal. As a matter of justice and fairness, the Secretary-General found that it would not be appropriate for the court to be located in any of the countries of the former Yugoslavia or countries bordering on the former Yugoslavia. On the other hand, for reasons of administrative efficiency and economy, the report did suggest locating the court in a European city, preferably in a country with an already established and significant presence of the United Nations. Geneva and The Hague were possibilities. Aware that the final decision would be made by the Security Council and including a proviso that the necessary arrangements could be made with the host country, the Secretary-General's team made a choice, and suggested that the court be located in the Dutch city of The Hague.[83] The decision was not further elaborated, but it may be reasonably inferred that the presence of the only permanent UN judicial body, the International Court of Justice, played a role in the team's deliberations.

When, on May 25, 1993, the United Nations Security Council unanimously voted to adopt the Secretary-General's report and the Tribunal's statute it contained, the occasion was marked by festive speeches by the diplomats present. The international tribunal, declared Diego Arria, the Venezuelan permanent representative, would be a "forum representing all humanity."[84] Referring to the criticism often leveled at the post-WWII military tribunals, the US ambassador Madeleine Albright poetically said of the newly established court, "This will be no victors' tribunal. The only victor that will prevail in this endeavor is the truth."[85] The Spanish representative concluded

Figure 3.3. On May 25, 1993, the UN Security Council passed Resolution 827 formally establishing the International Criminal Tribunal for the former Yugoslavia. Photo ICTY.

that, by adopting the Resolution 827 which established the Tribunal, the Security Council sought "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and indeed to establish conditions for the maintenance of justice and respect for international law."[86]

Having accepted the recommendation that the international tribunal be located in The Hague, the Security Council noted that this decision would be subject to the appropriate arrangements between the United Nations and the Netherlands.[87] In the same resolution, the Security Council requested the Secretary-General urgently to make practical arrangements for the effective functioning of the Tribunal.[88] As subsequent events demonstrated, this was easier said than done. When the eleven judges elected by the UN General Assembly to serve at the ICTY first came to The Hague in November 1993 to commence their work, those practical arrangements were non-existent. As the former Deputy Registrar of the ICTY, Kate Mackintosh, jokingly observed many years later, unlike the military tribunals in Nuremberg and Tokyo, which were effectively supported by the occupying powers providing the operational structure, the ICTY found itself in a rather different situation. "The Security Council was not occupying the Netherlands," noted Macintosh, "and so the ICTY had to figure out for itself how to build this structure."[89]

The judges found themselves using personal connections in order to provide even the basic conditions for work. The first ICTY President, Antonio Cassese, recalled with some indignation, "We had strictly nothing: no

Figure 3.4. First session of the ICTY in the Peace Palace, The Hague, November 1993. Photo ICTY.

location, no money, no personnel, no buildings."[90] Cassese was able to secure the rent of a meeting room and three small offices at the Peace Palace in The Hague for a few weeks, with some equipment and several temporary staff, so that the judges were able to convene and hold their first plenary meeting on November 17. But, when he attempted to negotiate an extension to lease at the Peace Palace for the ICTY judges, he received "a categorical refusal." The language was diplomatic, but Cassese paraphrased: the ICTY, he said, was told "to hit the road."[91]

Luckily for the nascent Tribunal, the Dutch government soon located suitable premises just down the road from the Peace Palace, in the west wing of the Aegon insurance company.[92] Soon after the United Nations and the Government of the Netherlands signed the Headquarters Agreement on May 27, 1994,[93] the initial, four-year lease for the premises was signed in July 1994.[94] It allocated 7,500 square meters to the ICTY.[95] While the building was at this stage shared with the Aegon insurance company, the lease enabled the Tribunal to commence the conversion of office space into one courtroom, with its related facilities, as "an obvious prerequisite for any trial."[96] Thus began, in the second part of 1994, the transformation of the building at Churchillplein 1 into the seat of the first international criminal court of the modern era.

The need for the courtroom became more urgent towards the end of 1994, when the Tribunal's Office of the Prosecutor filed a request seeking an order from the Trial Chamber to transfer a Bosnian Serb suspect, Duško Tadić, from Germany, where he was being held and prosecuted for his alleged crimes in Bosnia and Herzegovina, to the ICTY.[97] The hearing before the Trial Chamber, which included submissions by the OTP and the German authorities, was the first ever hearing held at the ICTY, on November 8, 1994. But by the eve of the hearing, the "obvious prerequisite" for any judicial

proceedings, the courtroom, was still not ready. The first spokesperson of the Tribunal, Christian Chartier, recalled some years later the feeling of panic as he left the office on the night before the hearing.

To his pleasant surprise, the construction efforts continued through the night, and, miraculously, the courtroom was ready on the morning of the November 8.[98] The American judge Gabrielle Kirk McDonald, who presided over the first ever hearing, was somewhat less impressed. The judges' bench in what was to become the Trial Chamber 1, consisted at this early stage of "a table with a tablecloth on it."[99] The proceedings were recorded using two cameras arranged by the company that provided conference services. These were mounted on tripods at opposite sides of the courtroom, and they enabled the recording of proceedings from two opposite angles, depending on the speaker, but not much else. Subsequently, an informal working group was set up in the ICTY to seek a more permanent and suitable solution for audio-visual requirements. The working group studied examples from national jurisdictions (notably the OJ Simpson trial) and sought advice from Court TV, a US company specializing in coverage of trial proceedings.

However, these teething troubles provided important lessons which were used to transform the Aegon building into a fully functioning court. Following the agreement of the German authorities to refer the Tadić case to the ICTY and Tadić's subsequent transfer to the Hague, the Tribunal's requirements for specific features of the premises required major structural modifications of the existing space. Large parts of the work in late 1994 and early 1995 were carried out under "the professional guidance of the Netherlands Federal Building Service,"[100] including the construction of "the special passageways and holding cells,"[101] which would facilitate secure handling of the accused and witnesses. At the same time, the ICTY's Office of the Prosecutor decided to make use of some existing features of the building, which required no modifications. The first OTP employee, Deputy Prosecutor Graham Blewitt, later recalled with amusement how the prosecution's Records Section decided to store the documents in the huge vault in the basement that had previously been used by Aegon to store securities. This impressive structure, "secured by a huge, thick round door with wheels and levers to lock it," reminded the Deputy Prosecutor of "something from Fort Knox."[102]

The crucial intervention during this period saw the transformation of the room with "a table with a tablecloth on it" into a modern, fully equipped, and, in many ways, groundbreaking courtroom. The concept behind the first ICTY courtroom was to achieve full technological integration of the proceedings, including "evidence appearing on screens [built into the

Figure 3.5. ICTY – Courtroom 1 of the ICTY in session. View from the defense side. Photo ICTY.

benches], broadcast of the proceedings, live transcripts, technological witness protection measures," as well as the first remote witness testimony via video. One of the first ICTY employees, David Falces, later recalled his involvement in the conceptualization and construction of the courtroom with some pride, noting that, at the time, "courtrooms like this didn't really exist."[103]

One particular feature of the newly designed courtroom entailed the replacement of the tripod- mounted cameras with a court TV production system that made it possible to record the proceedings with multiple (initially four, later six) unobtrusive wall-mounted cameras operated from a soundproofed control room. The video production capacity proved to have a particularly important role in facilitating the transparency of the proceedings: for reasons of security and confidentiality, representatives of the media were not allowed to the courtroom itself, nor were they allowed to film from the public gallery to which they did have access. Yet the Tribunal's judges believed in the transparency of the proceedings and decided to provide to the media, as far as was practicable, a live and uninterrupted audio- video relay of the trial. The Tadić trial thus became the first ever international criminal trial to be broadcast live and in its entirety to audiences around the world. Initially the proceedings were broadcast in real time, but two months into the trial, video playback delay equipment was installed, which made it possible for the signal to be delayed for 30 minutes. This system has been in place ever since, for the protection of confidential information.

The full technological integration of the courtroom, including scope to present evidence on individual screens to all participants of the proceedings, to easily introduce photographic and video evidence, and to produce a visual record of the trials, created what James Gow and Milena Michalski termed a "highly visual courtroom."[104] The unprecedented visual aspect of the ICTY's proceedings was, in these authors' view, important in three distinct ways: enhancing the court's appreciation of events; contributing salient evidence; and offering an opportunity to connect with the various audiences and publics with an interest in the Tribunal's business.[105]

Having the courtroom purpose-built for the Tribunal enabled the judges to have an important input into furniture and equipment choices, and also allowed for accommodating the specific requirements of an international court, such as the need for simultaneous translation of the proceedings into two official court languages, English and French, and the languages of the accused and the witnesses.[106] In addition, a public gallery was constructed adjacent to the courtroom, which would provide, over the years, an opportunity for many thousands of observers, from victims and their families to journalists, students, and casual interested parties, to attend the trials and witness at first hand the work of an international criminal tribunal. Some 390 media representatives were already in attendance on the ICTY premises at the opening of the first trial of Duško Tadić in May 1996, "and the proceedings of the trial were broadcast on radio and television worldwide."[107] It would perhaps be interesting to know how many of the journalists whose TV reports included the shots of the building in which the international criminal justice was being reborn were aware that, just a few hallways away, an insurance company was quietly co-existing with the court.

As stipulated in the lease agreement, the ICTY took over the entire Aegon building on January 1, 1997.[108] The well-nigh three-fold increase in space, from 7,200 to 19,500 square meters, meant in practice that the Tribunal found itself with too many offices to fill. As a result, part of the building was rented to the Organization for the Prohibition of Chemical Weapons (OPCW), until the completion of its own headquarters in the vicinity of the ICTY.[109] However, the steady increase of the numbers of accused who were arrested or voluntarily surrendered to the Tribunal, and the resulting judicial activity, required an increase in the number of staff, as well as further alterations to the building, so as to accommodate the need for several concurrent ongoing trials.

Consequently, when the OPCW sublet ended in April 1998, the Tribunal completed its expansion into the entire building.[110] Even more importantly, the same year saw the construction of two additional courtrooms, largely

modeled after the same principles of technological integration as the Trial Chamber 1, discussed above. Mostly financed by donations from the UK, USA, and the Netherlands, the construction of the new courtrooms was completed by June 1998.[111] With the inauguration of three new judges in 1999 and the consequent establishment of Trial Chamber 3, the three ICTY courtrooms became fully operational.[112] In the coming years, the Tribunal would hold trials at full capacity, with the proceedings ongoing in all three courtrooms in two daily shifts. Starting from humble beginnings, by this time the ICTY had already secured its place in the annals of international criminal justice.

Arguably one of the greatest contributions to the ICTY's reputation as a breakthrough international criminal court came with the May 1999 indictment of the President of Federal Republic of Yugoslavia, Slobodan Milošević, for crimes allegedly committed by Yugoslav forces in Kosovo.[113] The first ever indictment of a sitting head of state for crimes against humanity and war crimes was often cited by both the ICTY itself and external observers as contributing to the global end of the culture of impunity for these crimes. Unsurprisingly, when Milošević was arrested in Belgrade in 2001 and subsequently transferred to the custody of the ICTY, the eyes of the world turned to The Hague. In the months preceding the beginning of Milošević's trial in February 2002, the average of press contacts with the Tribunal's authorized spokesperson rose from 3,100 to 13,100.[114] According to the European Broadcasting Union (EBU, Eurovision), the opening of the trial itself was seen on television by more than one billion viewers.[115] For many of these viewers, the images of the building at Churchillplein 1 came to present a visual icon of modern-day international criminal justice.

Both the ICTY's reputation as a groundbreaking institution in the area of international criminal law and the iconic status of the building in which it was housed were further reinforced in the years that followed, with the arrest of the remaining fugitives and their subsequent trials,[116] both duly covered in international media. By the time the ICTY closed down in 2017, with its residual duties taken over by the International Residual Mechanism for Criminal Tribunals (IRMCT), its multifaceted legacy was well established. One component of its history, albeit perhaps not at the forefront of attention, was the transformation of the building at Churchillplein 1, from an insurance company building into a visual icon of international criminal justice. As Jurriaan Kraak, Ambassador of the Netherlands to Bosnia and Herzegovina, remarked of the ICTY on the occasion of its 20th anniversary, having found its seat in The Hague, the Tribunal "has become an integral part of the makeup of that city."[117] In the process, according to the ambassador, the Tribunal

"has played an important role in The Hague's becoming the international legal capital of the world"[118]. Along with its predecessor, the International Court of Justice, and its successor, International Criminal Court, the ICTY and its historic building at Churchillplein 1 became an unmissable feature creating the landscape of that capital city of international law.

Memorial Values of the ICTY: Some Reflections on the Legal Aspects*

> *"The Nuremberg model, based on victorious powers assuming jurisdiction over the losers, has given way to multilateral justice in the name of the whole international community acting through the Security Council. This was what happened with regard to the Tribunals established for the former Yugoslavia and Rwanda. On 1 July 2002, we entered a completely new era, where acts of genocide, crimes against humanity and war crimes all potentially fall under the jurisdiction of the new International Criminal Court* [...] *in The Hague."*[119]

Introduction

How a particular place is associated with war violence and other dramatic events is influenced by a reflection on how that location is connected to the tragedy. For a battlefield (like Verdun) or a concentration camp (like Dachau), this is obvious: these events took place there; people can almost smell the fear and hear the cries. In the case of the prosecution of war criminals, the connection to the events in terms of time and distance is, by definition, looser: individuals are held accountable in the relatively safe and comfortable setting of a courtroom, after the dust has settled. Nevertheless, especially within criminal law circles, the idea prevails that a criminal should be tried within the community they have harmed. This is because criminal law aims to protect the values most cherished within that community.[120] Principles of criminal jurisdiction reflect this community involvement. The principle of territoriality and the principle of active nationality (which relates to the nationality of the perpetrator) are considered particularly strong bases for jurisdiction.[121]

In the case of so-called "system crimes," choosing the forum—whether in the territory where the crimes were committed and/or the state whose nationals are involved—is not straightforward and can even be quite problematic. In most cases, the state itself is involved (or has been involved) in

* This section is written by prof. dr. Harmen van der Wilt

the crimes, which can potentially hinder impartial and independent judicial proceedings. Moreover, the question arises as to who or what constitutes the "community" within which perpetrators of "unimaginable atrocities"[122] should be held accountable for their crimes. The Preamble of the Rome Statute suggests in several places that this community is nothing less than the entire international community.[123]

Against this backdrop, the establishment of the International Criminal Court (ICC) and the choice of The Hague as its seat make sense. The geographical distance between the "place of the crime" and a court staffed by international judges and prosecutors is associated with independence and impartiality, reflecting the global scope of the endeavor. However, there remains a certain tension between the natural preference for criminal justice within manageable social or national communities and the global ambitions of international criminal law. This tension is recognized and expressed in the famous complementarity principle, which gives precedence to national prosecution and considers a case for the ICC only if "a state is unwilling or unable genuinely to carry out the investigation or prosecution."[124]

These remarks serve as a prelude to some legally oriented reflections regarding the commemorative values of the former International Criminal Tribunal for the former Yugoslavia. This section particularly emphasizes the international character of the Tribunal. In doing so, we have chosen to contrast the setup of the Tribunal with the Nuremberg Tribunal and the War Crimes Chamber in the Court of Bosnia and Herzegovina (hereafter: WCC), which, although they had (or have) a similar function, had an undeniably stronger connection to the specific place and community where the crimes were committed. In second paragraph, institutional aspects will be discussed (choice of seat, staffing, applicable law, legal basis), while paragraph three will highlight substantive legal issues: what gaps in international criminal law did the Yugoslavia Tribunal face? By finding solutions to these problems, did it contribute to the further development of international criminal law? And how could the significance of the Tribunal in these specific areas of legal development be brought to public attention? Paragraph four concludes with some recommendations.

Institutional Aspects: The ICTY as a Prototype of an International Criminal Court

There are several similarities between the ICTY and the Nuremberg Tribunal. Both played pioneering roles in their own ways. The Nuremberg Tribunal invented international criminal law (before Nuremberg, there was no international criminal liability), while the Yugoslavia Tribunal, after a long period

of hibernation, filled gaps and significantly enriched international criminal law, particularly concerning general criminal law doctrines (command responsibility, grounds for excluding criminal responsibility). This will be discussed in more detail in paragraph three. Furthermore, both tribunals were staffed by judges of various nationalities, symbolizing and reinforcing the international character of the proceedings.

However, the differences are more striking:

– Nuremberg still faces accusations of "Victor's Justice." The atrocities of the Nazis were unprecedented, but the war crimes of the Allies were completely ignored. Why, for example, was Arthur Harris ("Bomber Harris," the architect of the Dresden bombing) not tried?
– The composition of the court and the prosecution team (representatives of the victorious Allies) fueled allegations of bias.
– The trial of the Nazi leaders in Nuremberg took place amidst the ruins of a nearly destroyed city. The strong connection between the cause of the prosecution and the trial was unmistakable. The Nuremberg trials occurred in the building opposite the one where the infamous Nuremberg Laws were proclaimed.
– Although the defeated Germans had no input in the choice of location, they have internalized its symbolic significance over time. The extensive exhibition on the rise, peak, and fall of the Third Reich cannot be separated from the astonishment, shame, and deep sense of guilt (the well-known "Vergangenheitsbewältigung," the process of "accounting for the past"). The same goes for the almost sacred value attributed to Courtroom 600.
– While the Nuremberg Tribunal presented itself as the (first) international criminal court, its normative message was primarily directed at the German population.[125]
– Despite its limitations and well-founded criticism, Nuremberg set a precedent in substituting a legal process for revenge. This principle laid the groundwork for the later International Criminal Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Court (ICC).

From the outset, the Yugoslavia Tribunal was able to establish itself more strongly as an international and independent criminal court.

– A Security Council Resolution formed the legal basis of the Tribunal, indicating that the Tribunal's operations aimed to promote international peace and security.

- Although the Tribunal was initially accused of being biased against the Serbs, it gradually changed this perception by also prosecuting and convicting Croats, Bosniaks, and Kosovars. The difficult decision-making process concerning investigating and prosecuting alleged war crimes by NATO members (and the eventual decision not to pursue these) did somewhat tarnish the Tribunal's image.
- As part of its completion strategy, the Tribunal began transferring cases against low-ranking suspects to national courts in the states of the former Yugoslavia from 2005 onwards, based on Article 11 *bis* of the Statute. This created a clear division between international and national prosecutions. The WCC, using this framework, took over several cases from the Tribunal and tried suspects under the national law of Bosnia and Herzegovina.
- The location reinforces the international character of the Tribunal. The Netherlands/The Hague acts as a neutral host. Although Dutchbat was tragically involved in Srebrenica, this occurred in 1995, after the Tribunal was established. While the crimes committed by Bosnian Serbs in Srebrenica were addressed by the Tribunal in the cases against Generals Krstić and Mladić, the involvement of Dutchbat members and the Dutch state was investigated by Dutch courts. This confirmed the distinction between international and national prosecution.

Based on these characteristics, the Yugoslavia Tribunal can be classified as a "truly international (criminal) court" and a precursor to the ICC.

It is noteworthy that the separation between international and national prosecutions described above has not been continued in other tribunals established after the ICTY and ICTR. Many hybrid tribunals show a rich variety in terms of location, applicable law, and personnel composition, mixing national and international elements. Some examples to illustrate this:[126]

Special Court for Sierra Leone

- Location: Freetown (Sierra Leone) / The Hague (trial of former president Charles Taylor)
- Personnel composition: Mixed. Majority of international judges; minority of judges appointed by the government of Sierra Leone
- Applicable law: International and national law

Extraordinary Chambers in the Courts of Cambodia

- Location: Phnom Penh (Cambodia)

– Personnel composition: Mixed. Majority Cambodian judges, minority international judges
– Applicable law: International law

Special Tribunal for Lebanon

– Location: The Hague
– Personnel composition: Mixed. Majority of international judges
– Applicable law: National (Lebanese) law concerning terrorism

In establishing all these tribunals, it was considered important that the prosecution of international crimes be visible and accessible to the (national) community that suffered from the violence and now needed to come to terms with the past.

Contribution of the ICTY to the Development/Enrichment of International Criminal Law

The Yugoslavia Tribunal has further developed and enriched international criminal law through its jurisprudence. This was made possible by international political processes (such as the breakup of Yugoslavia) and also as a result of deliberate prosecution strategies by the Prosecutors. Both aspects are briefly illustrated below with several milestones:

– War Crimes in Non-International Armed Conflicts (NIACs): The 1949 Geneva Conventions provide for international criminal liability for grave breaches of international humanitarian law, applicable only to international armed conflicts. Before the dissolution of Yugoslavia resulted in the formation of separate new states, the conflict was considered a non-international armed conflict. In the Tadić case, the Appeals Chamber explicitly determined that serious violations of international humanitarian law in NIACs (partly codified in Common Article 3 of the Geneva Conventions) also result in criminal liability under international law.
– Joint Criminal Enterprise (JCE): International crimes rarely occur in isolation. They are part of structural violence involving multiple individuals within a military or political hierarchy. To express this collective dimension, expose collaboration mechanisms, and substantiate the liability of all participants, the Yugoslavia Tribunal frequently used the concept of Joint Criminal Enterprise. JCE is similar to the doctrine of conspiracy. Although its broad application has been criticized in academic legal literature, it is widely recognized as a creative way to highlight involvement "from top to bottom" in international crimes. The

JCE doctrine was used, among other things, to support the convictions of Karadžić and Mladić.
- Command Responsibility: The liability of (military) commanders is another doctrine further developed by the Yugoslavia Tribunal. While JCE emphasizes the collective dimension, command responsibility differentiates between the roles of superiors and subordinates. Criminal liability of a commander is based on effective control and knowledge of (or intention to commit) war crimes by subordinates. The Yugoslavia Tribunal has elaborated on these elements, contributing to ensuring that command responsibility does not devolve into a form of strict liability.
- Prosecution and Trial of Milošević: It is well-known that Milošević's trial was not completed due to his death. Nonetheless, the actual prosecution and trial of Milošević were significant in undermining the immunity of heads of state. They cannot rely on their status or function as a defense when facing an international tribunal or court for involvement in international crimes.
- Bombardments of Civilian Targets: Both Croats (during Operation "Storm") and Serbs (in Sarajevo and Dubrovnik) committed war crimes by bombing civilian targets.[127] In the Galić case (considering the Siege of Sarajevo), a Trial Chamber ruled that the defendant not only committed a war crime but also engaged in terror against the civilian population. This ruling debunked the prevailing notion that terrorism is the "privilege" of non-state actors.

Memory Values of ICTY from a Legal Perspective

These contributions by the Yugoslavia Tribunal have significantly influenced and shaped international criminal law, establishing precedents and expanding the scope of legal doctrines to better address the complexities of modern conflicts and the responsibilities of those involved. As a truly international tribunal, the ICTY has gained prestige for advancing international criminal justice.

The Churchillplein building symbolizes the development of international criminal law, in which the following legal aspects stand out:
- The international character of the ICTY, as a "respectable" antecedent to the International Criminal Court.
- Contrast with hybrid tribunals, as well as with Nuremberg and the WCC.
- Advantage of a "pure" international tribunal: greater distance (both geographically and psychologically) that enhances (the perception of) impartiality and independence.

Figure 3.6. Visitors attending trials. November 22, 2012. Photo ICTY.

– Disadvantage (essentially the mirror image): the community affected by the conflict/crimes feels less involved and "heard."

Some legal "achievements":
– Recognition and development of war crimes in non-international armed conflicts.
– Application of (international) criminal law doctrines that reflect the collective dimension of international crimes (JCE) and explore the liability of military commanders.
– The relatively rare prosecution of a (former) head of state.
– Recognition that state officials can also be guilty of terrorism/terror and that this may not be adequately captured by the term "war crime."
– To these legal "achievements" may also be added some broader goals of transitional justice which would include acknowledging victims, crimes, and harm done. The courtroom was a venue where narratives of perpetration entered the public space, often for the first time. The confessions of some perpetrators[128]—disclosed in proceedings that took place within these very walls—helped survivors to locate the remains of their murdered family members. The courtroom, additionally, allowed hundreds of victims the opportunity to have listeners—the audience in the room, the public gallery, and the much wider net of ICTY observers—bear witness to their suffering.[129] Moreover, the cells

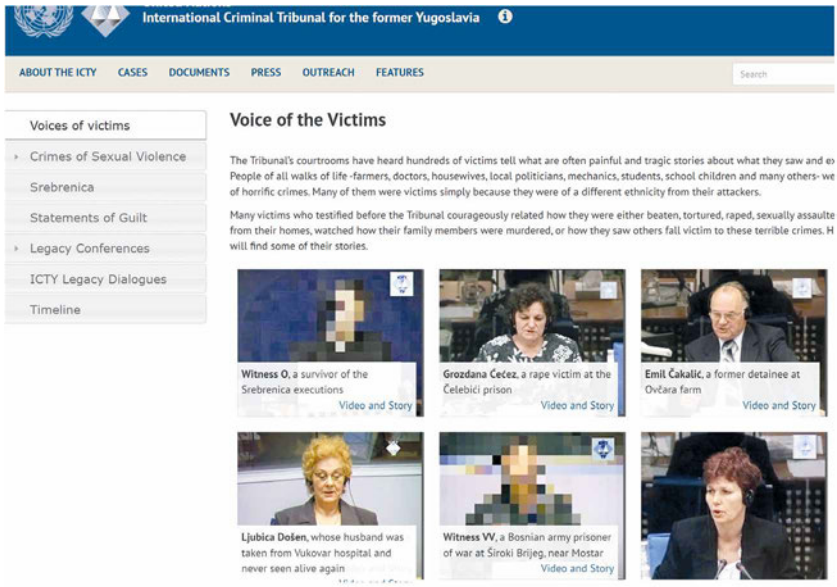

Figure 3.7. Screenshot of the ICTY website: "Voice of the victims". https://www.icty.org/en/features/voice-of-the-victims.

in the basement of Churchillplein held defendants—former political and military leaders—prior to their proceedings. The fact that the accused were not at liberty, but in fact, in detention from the moment of their capture, sometimes on these very premises, arguably contributes to the intrinsic value of this building as a historic site. One might consider that these cells possess symbolic meaning for the victim community.

Notes

1. James Crawford, "The drafting of the Rome Statute," in Philippe Sands (ed.), *From Nuremberg to The Hague* (Cambridge: Cambridge University Press, 2003), 109-156, esp. 129.
2. Rob van der Laarse, "Bones Never Lie? Unearthing Europe's Age of Terror in the Age of Memory." In Z. Dziuban (ed.), *Mapping the "Forensic Turn": Engagements with Materialities of Mass Death in Holocaust Studies and Beyond* (Vienna: New Academic Press / Beitrage des VWI zur Holocaustforschung, Band 5), 143-168, esp. 156, and for the momentary hope, cf. Francis Fukuyama, *The End of History and the Last Man* (New York: The Free Press, 1992).
3. The beginning of the Bosnian war on April 6, 1992, already had relatively wide media coverage, which solidified by the summer of that same year.

ITN's Penny Marshall and Ed Vulliamy in *The Guardian* made their famous report on the Prijedor camps in August 1992, with the famous cover photo of August 17, showing an emaciated Bosniak prisoner, Fikret Alic, behind barbed wires of the Trnopolje "concentration camp." Tara John, "The Story of this Shocking Image From a Prison Camp in Bosnia Continuous 25 Years Later", *Time*, 22-11-2017; Ed Vulliamy, "Shame of camp Omarska", *The Guardian*, 7 August 1992.

4. *Final Report of the United Nations Commission of Experts*, established pursuant to Security Council Resolution 780 (1992), Annex V: *The Prijedor Report*, Part II, The Context, IX/C (prepared by Hanne Sophie Greve), 28 December 1994, *UN Security Council*, , URL: https://phdn.org/archives/www.ess.uwe.ac.uk/comexpert/ANX/V.htm . The strategy of destructions, the military operations and camps are described in Part I: Conclusions, and Crimes against humanity and Genocide are legally defined in Part II: The Law. Chairman of the Commission were Frits Kalshoven (1992) and Cherif Bassiouni (1992-1993).
5. M. Cherif Bassiouni and Peter M. Manikas, "Final report of the United Nations Commission of Experts established pursuant to security council resolution 780 (1992)," Annex IV—"The policy of ethnic cleansing," 28 December 1994, *UN Security Council*, https://phdn.org/archives/www.ess.uwe.ac.uk/comexpert/ANX/IV.htm Ethnic cleansing as an overarching concept containing all forms of ethnic, religious, cultural, racist, and sexual violence, which in a legal sense can be considered crimes against humanity, genocidal massacres, and genocide, but in the reality of war all stems from the idea that everything is permissible in the fight against an enemy that claims or denies one's territory, heritage, or ideology. The boundaries are so fluid that in court "ethnic cleansing, despite its vague legal status, is generally easier to prove than genocide," since the latter is more easily adopted "in public opinion and even in history than in a court of law"; Mojzes, *Balkan Genocides*, 1-2, 15- 16.
6. Michael P. Scharf, *Balkan Justice. The Story Behind the First International War Crimes Trial Since Nuremberg* (Durham: Caroline Academic Press, 1997), 93ff.; "The Tribunal's first trial: another step in the fulfillment of the Tribunal's mandate," *ICTY Press Release*, 6-05-1996, URL: https://www.icty.org/en/press/tribunals-first-trial-another-step-fulfillment-tribunals-mandate (Accessed October 20, 2024); in 2000, Tadić would be moved from Scheveningen to Munich, and from there he was granted early release in 2008.
7. J.C.H. Blom, "Epiloog," in *Srebrenica, een "veilig" gebied. Reconstructie, achtergronden, gevolgen en analyses van de val van een Safe Area*, ed. J.C.H. Blom, P. Romijn, P. Bootsma, vol. III (Amsterdam: NIOD/ Boom, 2002), 3125-3172, esp. 3135. The page numbers refer to the original Dutch edition, not the English translation (which also does not include the Epilogue).
8. UN Security Council: Resolution 819 (1993) / adopted by the Security Council at its 3199th meeting, April 16, 1993, URL: https://digitallibrary.un.org/record/164939?ln=en&v=pdf (Accessed October 25, 2024); "Terminology,"

United Nations Peacekeeping, URL: https://peacekeeping.un.org/en/terminology (Accessed October 25, 2024). The Dutch battalion included two companies during three rounds in Srebrenica and Potočari, where it took over from the Canadians after Dutch peacekeepers had been active with peacekeeping in Croatia and the protection of humanitarian transports in Bosnia and Herzegovina.

9. Predominantly Muslim these were officially resistance militias with mixed ethnicity, and part of the Bosnian army (ABiH).
10. Although most sources interchangeable use the terms Muslim and Bosniak, the first is mainly used here when quoted from contemporary narrative or secondary literature. The term Bosniak was introduced in 1993 and was not used by the Serb forces throughout the aggression.
11. For an insider's account of this period in the Bosnian War, see Hasan Nuhanović, *De Tolk van Srebrenica* (Amsterdam: Querido, 2020). For victim numbers, the Serb nationalist genocide, and the Serbian nationalist Drina and Kosovo myths, G. Duijzings, *Geschiedenis en herinnering in Oost-Bosnië. De achtergronden van de val van Srebrenica* (Amsterdam: NIOD/Boom, 2002, sub-study Srebrenica report), 188-90, 193-5, and "Orić›s Two Years," *Human Rights Watch*, URL: https://www.hrw.org/news/2006/07/11/orics-two-years (Accessed October 2, 2024).
12. C. Wiebes, Intelligence en de oorlog in Bosnië 1992-1995. De rol van de inlichtingendiensten (Amsterdam: NIOD/ Boom, 2002), 457, 460.
13. Hafizović—Hadžimešić, *On the Side of Humanity*, 79-80, 88. According to the Asser Institute, criminal acts of terrorism against civilians could be prosecuted only by the ICTY and ICTR under international law only if they amounted to crimes against humanity and/or war crimes, and refers to the Galić-case before the ICTY, as the first being convicted for being responsible for the terrorist bombings and sniper shooting of civilians in Sarajevo between 1992 and 1994, and sentenced to 20 years in prison in 2003 for war crimes and crimes against humanity: "Terrorism", *Asser Institute*, URL: https://www.asser.nl/nexus/international-criminal-law/international-crimes-introduction/terrorism/ . The ICTY judged Karadžić responsible for a campaign of terror in the city of Sarajevo which left nearly 12,000 dead in the city in a bombardment that targeted civilians; 'Karadzic responsible for Sarajevo war crimes', *BBC News*, March 24, 2016, URL: https://www.bbc.com/news/world-europe-35888859 .
14. Silber and Little, *Death of a Nation*, 335-44l. The Trials Chamber did not consider Directive 7 sufficient evidence of genocidal intent for those who commissioned it (individual criminal responsibility), though considered it a "joint criminal enterprise to destroy the Bosnian Muslim population," a genocidal plan which crystallized only after the fall of Srebrenica, as quoted from *Prosecutor v Radislav Krstic.* Judgment, April 19, 2004 (Case No: IT- 98-33-A), para 89 ICTY, URL: https://www.icty.org/x/cases/krstic/acjug/en/ . *The Prosecutor of the Tribunal v. Zdravko Tolimir, Radivoje Miletic, Milan Gvero*, ICTY Case no. IT-04-80-I, art. 3.5, URL: https://www.icty.org/x/

cases/tolimir/ind/en/tol-ii050210e.htm , and compare David Harland, *Never Again. International intervention in Bosnia and Herzegovina* (July 26, 2017), Centre for Humanitarian Dialogue, working paper, 11, 19, 21, accessible via *HD Centre*, URL: https://hdcentre.org/insights/never-again-international-intervention-in-bosnia-and-herzegovina/ .

15. Even more than the well-known Dutchbat hostages, the longer isolated UN observers suffered, not least afterwards, from a lack of attention: Anne ter Rele, "Gegijzeld in Bosnië, maar geen erkenning. 'De onverschilligheid is het ergst'," *Trouw*, December 14, 2022, URL: https://www.trouw.nl/verdieping/gegijzeld-in-bosnie-maar-geen-erkenning-de-onverschilligheid-is-het-ergst~b7934157/
16. Karremans, "De toestand in Srebrenica", appendix to his 'alarm letter' of June 5, 1995 to the Hague Crisis Staff, and a shorter letter of 4 June ("Detoriating situation in Srebrenica") to BH Command in Sarajevo, both included in Thom Karremans, *Srebrenica. Who Cares? Een puzzel van de werkelijkeid* (Arko, 1998), 312-321, and compare *Srebrenica, een "veilig" gebied* (NIOD Report), III, 2735; Karremans, in: *International Decision Making*, session 2 "Testing the "Safe Areas", The Hague, June 28-July 1, 2015, 49, URL: https://www.ushmm.org/m/pdfs/20151119-Srebrenica-Transcript-Session2.pdf ; David Rohde, *Endgame. The Betrayal and Fall of Srebrenica, Europe's Worst Massacre Since World War II* (New York; Farrar, Straus and Giroux, 1997), 369-70; Blom, "Epiloog," 3145-8; Wiebes, *Intelligence en de oorlog in Bosnië*, 454, 456, 460.
17. List of all Bosnian Serb troops involved in the Srebrenica massacre handed over by RS to the Bosnian War Crimes Chamber in October 2005, Subotić, *Hijacked Justice*, 152.
18. "Systematic Executions Begin," Unites States Holocaust Memorial Museum, URL: https://www.ushmm.org/genocide-prevention/countries/bosnia-herzegovina/systematic-executions. For an insider's account, cf. Vitaly Korolyov, "Mum said: 'if we die, we die together.' Monologue of Alma Mustafić, survivor of Srebrenica," *Novaya Gazeta*, URL: https://novayagazeta.eu/articles/2022/09/01/mum-said-if-we-die-we-die-together .
19. Borger, *Butcher's Trail*, xxvi; Blom, "Epiloog," 3144-3149, 3153-4.
20. Wiebes, *Intelligence en de oorlog in Bosnië*, 455, 458
21. The massacre was conducted in revenge for the killing of a Serbian district leader from Srebrenica: Duijzings, *Geschiedenis en* herinnering,168-170, and see for witness accounts of Bratunac's female survivors, Selma Leydesdorff, *De leegte achter ons laten. Een geschiedenis van de vrouwen van van Srebrenica* (Amsterdam: Bert Bakker, 2008), 114-129, 374.
22. Blom, "Epiloog," 3160; Bart Nijpels, *Srebrenica. Een verkeerd geschreven geschiedenis* (*Checkpoint*, 21 (2020) 6, special attachment), URL: https://www.stinglikeabee.nl/wp-content/uploads/2020/09/Srebrenica-een-verkeerd-geschreven-geschiedenis-Checkpoint06-2020_bijlage-090920.pdf.
23. According to Nuhanović's harrowing story, General Franken first ordered both his father and brother to leave the camp, because they had no UN per-

mits, though after his father was allowed to stay he decided still to leave together with his son, and both died, as did the mother: Nuhanović, *Tolk van Srebrenica*, 349-354. Another case was that of the UN electrician Mustafić who was sent out of the compound by mistake; Blom, "Epiloog," 3158-9.

24. Blom, "Epiloog," 3154.
25. Peter McCloskey. Senior Trial Attorney at the Office of the Prosecutor at the ICTY," in Hafizović—Hadžimešić, *On the Side of Humanity*, 76-90, esp. 78-9 (Prosecutor v. Popović et al.)
26. For an insider's account of the death march, see Hasan Hasanović, *Srebrenica overleven* (Kalmthout: Polis, 2019), 109-134.
27. On appeal in 2004, the sentence was reduced from 46 to 35 years in prison, because Krstić was only in full command as of July 13, and his role was "more of an aider and abettor to genocide, and not that of a perpetrator": Judgment in the Appeals Chamber, 19-4-2004. Prosecutor v Radislav Krstic (Case No: IT- 98-33-A), ICTY, URL: https://www.icty.org/x/cases/krstic/acjug/en/ , and cf. H. van der Wilt, "Srebrenica: on joint criminal enterprise, aiding and abetting and command responsibility," Netherlands *International Law Review* (2015), 62(2), 229- 241, esp. 235-6, URL: https://doi.org/10.1007/s40802-015-0036-8 (Accessed October 20, 2024), and regarding proven intent, Alan Tieger, "Senior Prosecutor at the ICTY," in Hafizović-Hadžimešić, *On the Side of Humanity*, 92-3.
28. "Radislav Krstić becomes the First Person to be Convicted of Genocide at the ICTY and is Sentenced to 46 Years Imprisonment." Press Release Trial Chamber ICTY, The Hague, August 2, 2001" (OF/P.I.S./609e), *UN ICTY*, URL: https://www.icty.org/en/sid/7964 (Accessed October 25, 2024).
29. "Systematic executions begin," USHMM. Many reburials also took place in other ethnically cleansed areas in 1992, such as Zvornik and Visegrad.
30. Jean-René Ruez, in Zvevdana Vukojevic, *Op zoek naar Karadzic* (Nieuw Amsterdam 2019), 176; "Genocide Without Corpses", *Newsweek*, 3-11-1996, URL: https://www.newsweek.com/genocide-without-corpses-176146, and further "Peter McCloskey. Senior Trial Attorney at the Office of the Prosecutor at the ICTY," in Hafizović—Hadžimešić, *On the Side of Humanity*, 76-90, esp. 78-9 (Prosecutor v. Popović et al.).
31. "Tribunal convicts Radovan Karadžić for crimes in Bosnia and Herzegovina," ICTY Press Release, March 24, 2016, URL: https://www.icty.org/en/press/tribunal-convicts-radovan-karadzic-for-crimes-in-bosnia-and-herzegovina (Accessed October 24, 2024); "Amended Indictment against Ratko Mladic," *ICTY Press Release*, November 12, 2002, URL: https://www.icty.org/en/sid/8054 (Accessed October 24, 2024); Trial Judgement in the case of Ratko Mladić to be rendered on 22 November 2017, ICTY Press Release, October 18, 2017, URL: https://www.icty.org/en/press/trial-judgement-in-the-case-of-ratko-mladic-to-be-rendered-on-22-november-2017 (Accessed October 24, 2024).
32. *Prosecutor v. Radivoje Miletić*, Decision on the application for early release, President of the Mechanism*, UN IRMCT*, January 18, 2024, https://www.icty.

org/en/press/trial-judgement-in-the-case-of-ratko-mladic-to-be-rendered-on-22-november-2017

33. "Carmel Agius, President of the ICTY / IRMCT," interview in Ajša Hafizović-Hadžimešić (ed.) *On the Side of Humanity* (Sarajevo: Mothers of Srebrenica and Žepa, 2021), 13-29, esp. 13, 18-19.
34. The Dutch edition is referred to in this report, but for the English-language digital edition, see J.C.H. Blom, ed. *Srebrenica Reconstruction, background, consequences and analyses of the fall of a "safe" area*, 3 volumes (Amsterdam: NIOD /Boom, 2002), URL: https://www.niod.nl/en/publications/srebrenica (Accessed October 20, 2024).
35. Jan Pronk in a broadcast of *Nova*, July 18, 1995, quoted in Blom, "Epiloog," 3164d; "Mark Harmon, Senior Trial Attorney," in Hafizović-Hadžimešić, *On the Side of Humanity*, 68. Furthermore, Dutchbat IV would be stationed in Tuzla until a later attack on the other safe zones by Mladić's VRS.
36. The 1999 UN Srebrenica Report went as far as "attempted genocide": "*The Fall of Srebrenica*", pp. 491, 501, 505; NIOD used the term "mass murder" to avoid confusion with international criminal law, althoug not avoided the "genocide issue": *Srebrenica, een 'veilig gebied'*, I, 13, and *Ibid.* III, 2653, 2837, and compare Van den Herik, "Accountability", 302, 306; Klep, "A Tale of Two Commissions",79. The current "NIOD Institute for War, Holocaust and Genocide Studies" refers to Bosnia and the "Fall of Srebrenica" as genocide: "What information does NIOD have about genocides other than the Holocaust?", *NIOD*, URL: https://www.niod.nl/en/frequently-asked-questions/what-information-does-niod-have-about-genocides-other-holocaust .
37. Pieter Lagrou, "Reflections on the Dutch NIOD Report. Academic Logic and the Culture of Consensus", in Delpla, *Investigating Srebrenica* (2014), 86-103, p.99. The Belgian historian assessed NIOD report as "not a contribution to an ongoing debate that is open to contradiction, but an end point in itself, the last completed step of an autistic process," but does not take into account the following "final" Bakker report, and the restrictive logic of a "political" research report: Jean-Louis Fournel, "Introduction to the 'Report-Form'. Characteristics and Temporalities of a Production of Public Truth", in Delpla, *Investigating Srebrenica*, 40-55, pp.45-6.
38. Christ Klep, "A Tale of Two Commissions. Dutch Parliamentary Inquiries during the Srebrenica Aftermath." In Isabelle Delpla et al, ed. *Investigating Srebrenica. Institutions, Facts, Responsibilities* (New York: Berghahn, 2014), 67-85m pp. 78, and 79-81.
39. "Commission-Bakker" was more critical of the role of the Dutch government and military than the former ministers, but did not assess perspectives other than Dutch responsibility: "Rapport enquête Srebrenica (28506), January 27, 2003," *Parlementaire Monitor*, URL: https://www.parlementaire-monitor.nl/9353000/1/j9vvij5epmj1ey0/vi3al1bnvgzt ; and for background information: "Parlementaire enquête Srebrenica (2002-2003)," *Parlement.com*. URL: https://www.parlement.com/id/vh8lnhrpmxvc/parlementaire_en-

quete_srebrenica_2002. The Committee Bakker also produced an "interim report" with a low outcome; Klep, "A Tale of Two Commissions",71-74.

40. Fears of legal claims by relatives drove the other parties to refuse to apologize, but they agreed on the continuation of the aid budget for Srebrenica, as well as the need for rehabilitation of Dutchbat: "Niet meer excuses aan Srebrenica," *Trouw*, June 18, 2003, URL: https://www.trouw.nl/voorpagina/niet-meer-excuses-aan-srebrenica~b9465686/ .
41. Rijsdijk, Erna. "'Forever Connected': State Narratives and the Dutch Memory of Srebrenica." In Dubravka Zarkov and Marlies Glasius (Eds.) *Narratives In and Out of the Courtroom: Former Yugoslavia and Beyond*. Springer, 2014, 131-146.
42. Judgement of the Appeals Chamber in the case of Radislav Krstić, April 2004, "ICTY Remembers: The Srebrenica Genocide 1995-2015," United Nations: International Criminal Tribunal for the former Yugoslavia, UCL: https://www.irmct.org/specials/srebrenica20/ (Accessed October 20, 2024).
43. "The Balkans: 10 years after Srebrenica. European parliament resolution on Srebrenica" (P6-TA(2005)0296), *European Parliament*, URL: https://www.europarl.europa.eu/doceo/document/TA-6-2005-0296_EN.pdf?redirect .
44. "European parliament resolution of 15 January 2009 on Srebrenica", *European Parliament*, URL: https://www.europarl.europa.eu/doceo/document/TA-6-2009-0028_EN.html
45. "European Parliament resolution on remembrance of the Holocaust, anti-Semitism and racism (October 13, 2015)" *Official Journal of the EU,* 13-10-2015, URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52005IP0018 .
46. "Parliament resolution of 2 April 1009 on European conscience and totalitarianism, European Parliament," *European Parliament, URL:* https://www.europarl.europa.eu/doceo/document/TA-6-2009-0213_EN.html?redirect .
47. "Srebrenica commemoration European Parliament resolution of 9 July 2015 on the Srebrenica Commemoration (2015/2747(RSP)", *Official Journal of the European Union* August 11, 2017, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015IP0276.
48. David Lowenthal, "Heritage and History. Rivals and Partners in Europe," in Rob van der Laarse (ed.) *Bezeten van vroeger. Erfgoed, identiteit en musealisering* (Amsterdam: Het Spinhuis, 2005), 29-39, pp.34-5; Introduction to Rob van der Laarse, Francesco Mazzucchelli, Carlos Reijnen, eds. *"Traces of Terror, Signs of Trauma." Practices of* (re)*presentation of collective memories in space in contemporary Europe* (Bologna: Bompari / Versus, 2014), 3-20, esp. 12; also R. van der Laarse, "Ils nous l'ont fait": Muséographie des mémoires concurrents après 1989." In D. Bechtel, & L. Jurgenson eds., *Muséographie des violences en Europe centrale et ex-URSS* (Paris: Collection Mémoires en Jeu. Éditions Kimé, 2016), 213-232.
49. W.B. Hoekstra, "Kamerbrief-verkenning-erkenning-genocide," *Directie Multilaterale Instellingen en Mensenrechten, Ministerie van Buitenlandse Zaken*, 8-11-2022, URL: https://open.overheid.nl/documenten/ronl-d18ecf04ca3d7b-

120b13ebeaad0ae622464b0c1f/pdf (translated into English) (Accessed August 31, 2024) The motivation for the letter was the passing of a parliamentary motion on the recognition of the Armenian genocide of 1915, and the current situation of the Uighurs. The MFA letter also refers to ongoing cases of extreme violence in Myanmar and Ukraine that are pending before the International Court of Justice in The Hague, and in which the Dutch government will intervene.

50. "The Director of the Srebrenica Memorial Center, Dr. Emir Suljagić's speech at the United Nations," Memorial Center Srebrenica, News April 29, 2024, https://srebrenicamemorial.org/en/news/the-director-of-the-srebrenica-memorial-dr-emir-suljagics-speech-at-the-united-nations/204 (Accessed August 31, 2024); "Azir Osmanović, genocide survivor and curator at the Srebrenica Memorial Center addressed the UN today," Srebrenica Genocide Memorial, News April 19, 2024, URL: https://srebrenicamemorial.org/en/news/azir-osmanovic-addressing-at-the-un/200 (Accessed August 31, 2024).
51. "General Assembly Adopts Resolution on Srebrenica Genocide, Designating International Day of Reflection, Commemoration," 87th session, May 23, 2024," *Meetings Coverage and Press Releases, United Nations*, URL: https://press.un.org/en/2024/ga12601.doc.htm (Accessed October 22, 2024); "UN establishes International Day of Reflection for Srebrenica genocide," *United Nations, UN News*, URL: https://news.un.org/en/story/2024/05/1150156 ; Federico Baccini, "Hungary breaks EU front on Memorial Day for Srebrenica genocide," *EUNEWS*, May 24, 2024, URL: https://www.eunews.it/en/2024/05/24/hungary-breaks-eu-front-on-memorial-day-for-srebrenica-genocide/ (Accessed June 10, 2025).
52. Orli Fridman, *Memory Activism and Digital Practices after Conflict. Unwanted Memories* (Amsterdam: Amsterdam University Press, 2023), 198-201.
53. "The Notebook, 2020," *Eugster-Belgrade*, URL: https://www.eugster-belgrade.com/editions/the-notebook/ (Accessed October 25, 2024).
54. Hayden White, "Catastrophe, Communal Memory and Mythic Discourse. The Uses of Myth in the Reconstruction of Society," in Bo Stråth, ed. *Myth and Memory in the Construction of Community: Historical Patterns in Europe and Beyond* (Brussels/New York: Peter Lang, 2000), 49-74, esp. 55, and cf. Chantal Mouffe, "An agonistic approach to the future of Europe," *New Literary History* 43 (2012)4, 629-640; Anna Cento Bull, Hans Lauge Hansen, "On agonistic memory," *Memory Studies*, 9 (2016) 4, 390-404; Michael Rothberg, *The Implicated Subject. Beyond Victims and Perpetrators* (Stanford: Stanford UP, 2019), and Rob van der Laarse, *How Death Reigns in Arcadia: About heritage of war in dealing with a dark past* (Farewell Speech. Vrije Universiteit Amsterdam, 2024), URL: https://research.vu.nl/ws/portalfiles/portal/288793656/Digitaal_boekje_ENG_How_Death_Reigns_in_Arcadia_r.pdf
55. Norbert Both, *From Indifference to Entrapment: The Netherlands and the Yugoslav Crisis 1990-1995* (Amsterdam: Amsterdam University Press, 2000)

56. Erna Rijsdijk, *Lost in Srebrenica. Responsibility and Subjectivity in the Reconstructions of a Failed Peacekeeping Mission* (PhD-Thesis, VU Amsterdam, 2012) 121.
57. Rohde, *Endgame*, 337.
58. Henk Kamp, minister of defense in the Balkenende cabinet, June 2003, cited in Klep, "A Tale of Two Commissions", 78, and further Rijsdijk, *Lost in Srebrenica*, 113ff.
59. Chat Blakeman, deputy head of mission, US Embassy The Hague, cited from a confidential cable from *Wikileaks*, December 19, 2006, in Rijsdijk, *Lost in Srebrenica*, 114-115.
60. "Dutchbat-veteranen stappen naar de rechter om 'onmogelijke missie' Srebrenica," *Trouw*, July 11, 2019, URL: https://www.trouw.nl/binnenland/dutchbat-veteranen-stappen-naar-de-rechter-om-onmogelijke-missie-srebrenica~b86c0e0e/ (Accessed October 20, 2024). Because of the Minister's commitment, a group of 250 veterans earlier withdrew their claim in court.
61. *Focus op Dutchbat-III. Publiekssamenvatting*, ARQ (2022). Nationaal Psychotrauma Centrum, 7, 13, URL: https://arq.org/sites/default/files/2022-06/Focus%20op%20Dutchtbat-III_Publiekssamenvatting.pdf .
62. Otto Spijkers and Cedric Ryngaert. "The End of the Road. State Liability for Acts of the UN Peacekeeping Contingent after the Dutch Supreme Court's Judgment in Mothers of Srebrenica (2019)," *Netherlands International Law Review* (2019) 66, 537-553. URL: https://doi.org/10.1007/s40802-019-00149-z.
63. "Dutch state liable over 300 Srebrenica deaths," *BBC News*, July 16, 2014. URL: https://www.bbc.com/news/world-europe- 28313285
64. Spijkers and Ryngaert, "End of the Road."
65. "Excuses van premier Rutte voor Dutchbat III, 27 jaar na val van Srebrenica, *Nieuwsbericht Rijksoverheid*, June 18, 2022, URL: https://www.rijksoverheid.nl/actueel/nieuws/2022/06/18/excuses-van-premier-rutte-voor-dutchbat-iii-27-jaar-na-val-van-srebrenica ; the PM's apology was echoed by Commander of the Royal Netherlands Army Martin Wijnen in 2023: "Waardering voor 'vergeten lichtingen' Dutchbat," *Ministerie van Defensie, Rijksoverheid*, URL: https://www.defensie.nl/actueel/nieuws/2023/11/04/waardering-voor-vergeten-lichtingen-dutchbat (Accessed October 20, 2024).
66. "Nederland biedt nabestaanden Srebrenica excuses aan, Rijksoverheid," *Nieuwsbericht*, July 11, 2022 , URL: https://www.rijksoverheid.nl/actueel/nieuws/2022/07/11/nederland-biedt-nabestaanden-srebrenica-excuses-aan (Accessed October 22, 2024); "Toespraak van minister van Defensie Kajsa Ollongren bij Srebrenica-herdenking in Potočari, 11 juli 2022," *Ministerie van Defensie,* URL: https://www.defensie.nl/downloads/toespraken/2022/07/11/toespraak-minister-kajsa-ollongren-bij-srebrenica-herdenking-in-potocari (Accessed October 22, 2024).
67. Harland, *Never again*, 2. Harland was stationed in the UN BiH Command in Sarajevo, UN representative in negotiations with Mladić after the fall of Žepa in July 1995, and lead author of the 1999 UN "Srebrenica report".

68. Cf. "Infographic: ICTY Facts & Figures (2017)," *IRMCT/ICTY*, URL: https://www.icty.org/node/9590 ; "Srebrenica Genocide 1995", *IRMCT*, URL: https://www.irmct.org/en/mip/features/srebrenica .
69. Iris van Huis, "Contesting Cultural Heritage: Decolonizing the Tropenmuseum as an Intervention in the Dutch / European Memory Complex," in: Tuuli Lähdesmäki, Luisa Passerini, Sigrid Kaasik-Krogerus, Iris van Huis, eds. *Dissonant Heritages and Memories in Contemporary Europe* (New York: Palgrave Macmillan, 2019), 215-248.
70. Cited in "Coalition for The International Criminal Court, Architectural Design Competition for The Permanent Premises of the ICC: Statement to the Jury, 30 October 2008," in Otto Spijkers, "Legal Monuments for Srebrenica in the Hague," *Utrecht Journal of International and European Law* 36 (20-21) 2, 120, URL: https://dspace.library.uu.nl/bitstream/handle/1874/413192/542_1566_2_PB.pdf?sequence=1&isAllowed=y ; As to the ICC see also Renske Vos, "Law in Concrete. Institutional Architecture in Brussels and The Hague," *Law and Humanities* 14 (2020)1, 57-82,URL: https://www.tandfonline.com/doi/full/10.1080/17521483.2020.1724407#abstract (Accessed September 2, 2024).
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72. "Europees erfgoedlabel," *Carnegie Stichting Vredespaleis*, URL: https://www.vredespaleis.nl/vredespaleis/europees- erfgoedlabel/#:~:text=Het%20Vredespaleis%2C%20belichaming%20van%20de,in%202013%20het%20Europees%20erfgoedlabel.
73. Serge Brammertz, "Prosecutor Serge Brammertz addresses the 25th Rwandan Genocide Commemoration in The Hague," *Office of the Prosecutor. Press Release*, 8-4-2019, UN IRMCT, URL: https://www.irmct.org/en/news/prosecutor-serge-brammertz-addresses-25th-rwandan-genocide-commemoration-hague .
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75. Jarl van der Ploeg, "Een gebouw dat bewijst dat je de cirkel van haat kunt doorbreken via het recht," *De Volkskrant*, June 9, 2023.
76. Spijkers, passim; "Archives," *United Nations. International Residual Mechanism for Criminal Tribunals*, URL: https://www.irmct.org/en/archives (Accessed October 10, 2024). For more details, see the chapter on the Hague archives in this report.
77. Eric Ketelaar, "Truths, Memories, and Histories in the Archives of the International Criminal Tribunal for the Former Yugoslavia." In H.G. van der Wilt, J. Vervliet, G.K. Sluiter, and J.T.M. Houwink ten Cate (eds.), *The Genocide Convention. The Legacy of 60 Years* (Leiden/Boston: Brill, 2012) 201-221, esp. 201-2.
78. United Nations, Security Council (S/RES/808 (1993)), *Resolution 808 (1993)*, February 22, 1993.

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80. UN SC (S/25704), *Report of the Secretary General pursuant to Paragraph 2 of Security Council Resolution 808 (1993)*, 03 May 1993.
81. UN SC (S/25704), *Report of the Secretary General pursuant to Paragraph 2 of Security Council Resolution 808 (1993)*, 03 May 1993, Part II.
82. UN SC (S/25704), *Report of the Secretary General pursuant to Paragraph 2 of Security Council Resolution 808 (1993)*, 03 May 1993, Parts III through VI.
83. UN SC (S/25704), *Report of the Secretary General pursuant to Paragraph 2 of Security Council Resolution 808 (1993)*, 03 May 1993, paras 131-132.
84. UN SC (S/PV.3217), *Provisional Record of the Three Thousand Two Hundred and Seventeenth Meeting*, 25 May 1993, 6. Barely a month before this session of the UN Security Council, Ambassador Diego Arria had led a UN SC fact-finding mission to Srebrenica, subsequently describing the situation in the besieged enclave as a "slow genocide."
Ambassador Arria later testified about this mission at the ICTY in the cases against Slobodan Milošević (See UN ICTY, Prosecutor v. Slobodan Milošević (IT-02-54), *Trial Transcript*, from page 31711) and Naser Orić (UN ICTY, Prosecutor v. Naser Orić (IT-03-68), *Trial Transcript*, from page 14320).
85. United Nations, Security Council (S/PV.3217), *Provisional Record of the Three Thousand Two Hundred and Seventeenth Meeting*, 25 May 1993 12. Ambassador Madeleine Albright also appeared as a witness before the ICTY judges in the case against Biljana Plavšić (UN ICTY, Prosecutor v. Biljana Plavšić (IT-00-39 & 40/1), *Trial Transcript*, from page 497).
86. United Nations, Security Council (S/PV.3217), *Provisional Record of the Three Thousand Two Hundred and Seventeenth Meeting*, 25 May 1993, 41.
87. UN SC (S/RES/827 (1993)), *Resolution 827 (1993)*, 25 May 1993, para. 6.
88. UN SC (S/RES/827 (1993)), *Resolution 827 (1993)*, 25 May 1993, para. 8.
89. Kate Mackintosh quote from her talk at the ICTY legacy event "The Story of the ICTY Registry: Running a Court—from prison to *pro se,*" October 5, 2017, from 06 min 35 sec, available at https://www.youtube.com/watch?v=dmzOVmSwQKU (Accessed April 29, 2024).
90. Quoted in Hazan, Pierre. *Justice in a Time of War: The True Story behind the International Criminal Tribunal for the Former Yugoslavia*. 1st ed. College Station: Texas A & M University Press, 2004, 49.
91. Hazan 2004, 49.
92. One of the first ICTY judges and the second ICTY President, Gabrielle Kirk McDonald, recalled that she, along with Cassese and Georges Abi-Saab went to inspect the building earmarked by the Dutch government as a potential seat of the ICTY, which was the building where the ICTY ultimately settled. See ICTY Global Legacy, *Conference Proceedings,* The Hague, November 15-16, 2011, 105.
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ian Law Committed in the Territory of the former Yugoslavia since 1991, New York, May 27, 1994.

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95. Rachel Kerr. *The International Criminal Tribunal for the Former Yugoslavia: An Exercise in Law, Politics, and Diplomacy* (Oxford: Oxford University Press: 2004), 43.
96. UN SC (A/49/342 and S/1994/1007), *Annual Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991*, August 29, 1994, para. 36.
97. Graham Blewitt. *Justice and War Crimes: An Insider's Story of the First International Criminal Court since Nuremberg*. North Richmond, NSW: Aurora House, 2023, 83-84.
98. Interview for the film *Against All Odds—The First Ten Years of the Tribunal*, SENS -Tribunal Production, 2004.
99. Interview with Sense News Agency, June 11, 2003. Available at https://icty-oralhistory.sensecentar.org/gabrielle-kirk-mcdonald-interview (Accessed May 12, 2024).
100. ICTY Annual Report, August 23, 1995, para. 141.
101. ICTY Annual Report, August 23, 1995, para. 120
102. Graham Blewitt. *Justice and War Crimes: An Insider's Story of the First International Criminal Court since Nuremberg*. North Richmond, NSW: Aurora House, 2023, 67.
103. David Falces quote from his talk at the ICTY legacy event The Story of the ICTY Registry: "Running a Court—from prison to *pro se,*" October 5, 2017, from 28 min 06 sec, available at https://www.youtube.com/watch?v=dmzOVmSwQKU (Accessed April 29, 2024).
104. James Gow, Rachel Kerr, and Zoran Pajić. *Prosecuting War Crimes: Lessons and Legacies of the International Criminal Tribunal for the Former Yugoslavia*. Contemporary Security Studies. Abingdon-on-Thames: Routledge, 2014, 46.
105. Gow, Kerr, and Pajić, 30.
106. *Supra* note 18, 48.
107. ICTY Annual Report, August 16, 1996, para. 4.
108. ICTY Annual Report, September 18, 1997, para. 110.
109. *Supra* note 18, 43.
110. In June 2005, all three courtrooms and their support facilities were remodeled to allow trials of up to 18 accused simultaneously. At the same time, technical alterations were made to allow for further technological integration and to provide full implementation of the e-Court system environment, as well as to allow simultaneous interpretation into four languages,

instead of the previous three. See ICTY Annual Report, August 21, 2006, para. 112.

111. ICTY Annual Report, August 21, 2006, para. 112.
112. ICTY Annual Report, August 25, 1999, para. 157.
113. ICTY Press Release, *Statement by Justice Louise Arbour, Prosecutor ICTY*, May 27, 1999.
114. ICTY Annual Report, September 4, 2002, para. 246.
115. ICTY Annual Report, September 4, 2002, para. 247.
116. The last ICTY fugitive, Goran Hadžić, was arrested in 2011. See UN ICTY Press Release, *Goran Hadžić in Tribunal's Custody*, July 22, 2011.
117. UN ICTY, *20 Years of the ICTY; Anniversary Events and Legacy Conference Proceedings*, 2014, 21.
118. UN ICTY, *20 Years of the ICTY; Anniversary Events and Legacy Conference Proceedings*, 2014, 21.
119. Andrew Clapham, Andrew, "Issues of Complexity, complicity and complementarity: from the Nuremberg trials to the dawn of the new International Court," in Philippe Sands, ed. *From Nuremberg to The Hague. The Future of International Criminal Justice*. Cambridge: Cambridge University Press, 2003, 66.
120. Emile Durkheim. *The Division of Labor in Society*. New York: The Free Press, 1997 [1893].
121. The passive nationality principle based on the nationality of the victim has gained importance in recent decades, amidst increased attention to victims within criminal law.
122. See the Preamble of the Rome Statute of the International Criminal Court.
123. "(…) unimaginable atrocities that deeply shock *the conscience of humanity*"; "(…) grave crimes *threaten the peace, security and well-being of the world*"; "(…)most serious crimes of concern *to the international community as a whole*" (italics H.v.d.W.).
124. Statute of Rome, art. 17, section 1 sub a.
125. The same can be said of the Tokyo Tribunal.
126. For a thorough overview: Cesare P.R. Romano, Andre Nollkaemper & Jann K. Kleffner, *"Internationalized Criminal Courts; Sierra Leone, East Timor, Kosovo and Cambodia*" Oxford: Oxford University Press 2004.
127. The Croatian Brigadier General Gotovina was acquitted by the Appeals Chamber after initially being convicted.
128. Dražen Erdemović | https://www.icty.org/en/sid/212
129. Voice of the Victims | International Criminal Tribunal for the former Yugoslavia (icty.org)

Chapter Four: The ICTY archives

Abstract: This chapter examines the formation, composition, and management of the Tribunal's archives over the past decades, highlighting long-term risks associated with ensuring their sustainable accessibility. One section focuses on the Churchillplein building in The Hague, exploring its role in the creation, utilization, and stewardship of the archives. Together, the building and the archives constitute a 'living archive'—a physical and symbolic space where testimonies were delivered, justice was administered, and collective memory is preserved. The archives serve not only as repositories of historical records but also as enduring symbols of hope and justice for the future. While their legal significance is paramount, the chapter emphasizes their broader value and meaning for various stakeholders, including victims, educators, and those engaged in transitional justice processes.

Since the Tribunal's inception, there has been a widely held belief that the ICTY archives are crucial instruments in preventing the denial of committed crimes. However, recent scholarly discourse suggests that these archives do not represent an unequivocal or singular truth. Instead, they comprise fragments that illuminate different facets of complex realities. A significant portion of the archives consists of materials collected by prosecutors as potential evidence for trials. The prosecutorial decisions—determining which cases to pursue and which to omit—have fundamentally shaped the content of the ICTY archives. The Tribunal's mandate to investigate and adjudicate crimes within a legal framework has inherently influenced both the substance and organization of the archival records. While there is a consensus on the archives' potential to transcend their legal origins, realizing this broader significance necessitates deliberate choices. Ensuring that the archives fulfill roles beyond legal documentation—particularly in serving victims and their descendants—requires intentional efforts to make them accessible and meaningful to diverse audiences

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Laarse, Rob van der, Charles Jeurgens, Sabina Tanović. *The Former "Yugoslavia Tribunal" as Monument of Justice: History, Heritage and Memory of the ICTY and IRMCT in the City of Peace and Justice*. Amsterdam: Amsterdam University Press, 2025.
DOI: 10.5117/9789048572014_CH04

> *"In the archive, the whispers will always be heard of contexts undocumented, unknown or yet to be generated. Ghostly voices. And then, finally, there are the spectral places of consignation. Where is the place (and it could be a virtual place) where the record, the fragment, the archive was born and lived outside of archival purview? Archivists fantasise about 'original order', rightly, but also need to fantasise about original location, for the fragments in their custody comprise matter out of place. The whispers of dislocation can be heard. Ghostly voices of other places, of lineages, of origins."*[1]

ICTY archives

One of the most important legacies of the ICTY is the immense archive built up during the almost 25 years of the Tribunal's activities. It is an archive that has been largely digitized and is concentrated in one place, quite unlike the Nuremberg Tribunal,[2] whose archives are spread across various locations around the world. It is a unique collection, not only because it contains so much evidence, but also because it is so comprehensive, with books, records, and artifacts all kept together.[3] Otto Spijkers called the rulings of the ICTY "legal monuments"[4] while David Kaye wrote of the Tribunal in The Hague that it was "a repository of testimony, analysis, judgment, opinion, dissent, contempt, imaginary and memory. Its archives hold the stories of those who suffered through the Siege of Sarajevo, the massacres around Srebrenica and in Vukovar, the numerous rape camps Bosnian Serb forces set up around Bosnia in the early 1990s, ethnic cleansing in the Krajina, and much more. It gives voice not only to the victims but also to the accused, those who, like Serb President Slobodan Milošević, repeatedly rejected the Tribunal's authority in lengthy disquisitions before the bench. The Tribunal stores the assessments of diplomats, military officers, international analysts, journalists, and others who brought experience and expertise to the ICTY's work. In videos and transcripts stored on terabytes of servers, prosecutors make motions, defense counsel object to them, judges decide them, and a small army of clerks read evidence into the record that may support or refute them."[5]

The ICTY is by far the largest repository of information about crimes committed in the former Yugoslavia during the conflict.[6] Compared to any other international court, the openness and accessibility of the ICTY (and the same applies to the Rwanda Tribunal archives) is unprecedented. As a result, the archive plays an important role for research beyond matters of prosecution and trial. It is important research material for historians,

journalists, documentary makers, educators, and perhaps most importantly communities from the countries affected by the war and the atrocities committed. In the medium and long term, these so-called secondary functions of the archive will only become more important, provided that the archive is preserved as a unit, further work is done on making the material accessible and contextualizing it, and special programs are developed to maximize the potential of the archive for education, memory and social justice purposes.

The Value of the Tribunal's Archives

Providing a concise and unequivocal answer to the question of the value of the archives created by the Tribunal is not straightforward. While the intrinsic value of these archives for truth-seeking is rarely contested, there is a noticeable trend for the archives themselves increasingly to become objects of study, rather than merely serving as sources for research.[7] Julia Viebach et al. emphasize that because archives always exist within a political context, it is crucial not only to examine the power dynamics under which these archives were created, but also to understand the power relations their use represents.[8] We observe that this shift is also gradually being applied in the approach toward Tribunal archives. In this section, we will discuss the various perspectives encountered in our research according to which the value of the Tribunal archives is assessed.

Human rights researcher Eric Stover investigated the experiences of witnesses who testified in ICTY trials and how this affected their lives, both positively and negatively. He interviewed many people who acted as witnesses for the ICTY who considered it as "their 'moral duty'" to ensure that the truth about the death of family members, neighbors, and colleagues was duly recorded and acknowledged. They went to The Hague not on a quest for vengeance—time had dimmed such fantasies, if they had existed at all—but to set the record straight about the suffering of their families and communities in the presence of the accused."[9] In the long run it is the archive that remains as the most important witness to the crimes and atrocities committed during a period of political and military struggle. Immediately after the establishment of the Tribunal, it was determined that a complete and accurate archive should be created. The Rules of Procedure and Evidence stipulate that "[t]he Registrar shall cause to be made and preserve a full and accurate record of all proceedings, including audio recordings, transcripts and, when deemed necessary by the Trial Chamber, video recordings."[10] Since the Tribunal's work began, the long-term importance of creating such

an archive has been emphasized again and again. The archive should make denial of the horrors that had occurred impossible.[11]

In the context of that purpose, the words of the Chief of Counsel for the United States at the Nuremberg Tribunal Robert H. Jackson are often invoked. In his opening statement to the International Military Tribunal in 1945 he stressed that "[w]e must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well. We must summon such detachment and intellectual integrity to our task that this Trial will commend itself to posterity as fulfilling humanity's aspirations to do justice."[12] Jackson saw it as an important task of the prosecutor to document the Nazi aggression and atrocities in such a way that no "responsible denial of these crimes in the future and no tradition of martyrdom of the Nazi leaders can arise among informed people."[13]

These ideas were echoed by the ICTY's first president, Antonio Cassese, who noted that the ICTY had "scrupulously established all the facts relating to some alleged criminals and (…) [t]hrough its proceedings, it also has established a record of events that will go down in history and may not be impugned in future."[14] Truth-seeking and documenting criminal activities and atrocities not only helps to counter revisionist interpretations of the past,[15] it also allows future generations to have access to historical data, allowing them to form their own interpretations and conclusions. Historians and other scholars, however, have criticized and tempered these expectations. Legal scholar Martha Minow argues that trials following mass atrocities can never produce a complete historical record, as the prosecutorial focus during the proceedings inevitably affects the accounts and the capacity of the prosecutors and Tribunal is limited. Moreover, suspects of war crimes tell their own version of the story, possibly containing lies that further distort the historical record.[16] Viebach has rightly pointed out that such archives do not mirror the truth, but at best represent "mosaics of a truth."[17]

The ICTY archives embody the principles set out by the UN to combat impunity by ensuring truth, justice, reparation, and guarantees of non-recurrence. They serve as a crucial tool in the global effort to uphold human rights and prevent future violations. The *UN Principles to Combat Impunity*,[18] formulated in 1997 and updated in 2005, grant everyone the "right to know"[19] and "the inalienable right to the truth," as reiterated in 2013 in the UN resolution "Right to the Truth."[20] Archives are instrumental in this regard, with an obligation for states "to preserve archives and other evidence concerning violations of human rights and humanitarian law and to facilitate knowledge of those violations."[21] Although the establishment

of the Tribunal in 1993 was initially met with high expectations regarding its role as a tool for reconciliation, peace, and accountability, this optimism gradually gave way to skepticism. This shift in perspective aligns with Martha Minow and many others who, over time, have become increasingly convinced that "reconciliation is not the goal of criminal trials except in the most abstract sense."[22] Whether archives have the potential to play a role in reconciliation and redress is a subject of debate among scholars without any clear conclusions being drawn.[23]

Refik Hodžić, former ICTY Registry Liaison Officer in Bosnia and Herzegovina, indicated in 2011 that the road to reconciliation would in any case be long. He observed that the physical and emotional distance between the ICTY and the victims who did not testify in The Hague was significant. This gap was not only a result of the Tribunal's operating far from the sites of the crimes, but also of the victims' frequently facing ongoing hostile propaganda in their home countries, undermining the Tribunal's work. He suggested that the ICTY "should focus on giving victims some ownership in the legal process, which would aid in informing them of the Tribunal's work."[24] While the Tribunal's investigative and court records could serve as a lasting antidote to manipulated and distorted accounts of war crimes and genocide, they will remain virtually ineffective unless the information they contain is made accessible and presented in a way that truly fulfills this purpose.[25] Ketelaar suggests integrating records into both personal and collective memories as a healing commemorative practice. Such rituals of commemoration may not necessarily help in making sense of the terror experienced, but they may at least help mitigate the traumatic burden by uniting with fellow members of the memory community.[26]

More recently, authors such as David Kaye, Fé de Jonge, and Julia Viebach have articulated more critical perspectives on the Tribunal's archives. David Kaye, Professor of Law at the University of California, advocates the development of a long-term vision regarding the purpose that the Tribunal archives should serve. The notion, often assumed, that the judicial output of the Tribunal predominantly consists of "adjudicated *facts"* is inaccurate because the archives also encompass "factual and legal *interpretations*," and he adds that "few 'facts'" are considered uncontested by people in the region."[27] Kaye argues that the discourse surrounding the ICTY archives has predominantly centered on the question of where the Tribunal's archives should be housed, with an overly naïve assumption that they inherently serve a reconciliation function. The fundamental questions of "what purposes the archives might actually serve" and what it will take to achieve these goals have been left unanswered. Kay proposes four purpose-driven future

scenarios for the Tribunal's archive: an archive of history and experience (an archive that reflects the lived experience of the people in the region), an archive of processes (an archive that mirrors the choices that have been made in developing international criminal procedures), an archive of jurisprudence (an archive that captures the nature and proceedings of and purposes behind the law), and, finally, an archive of an institution (archive that captures the reality of the ICTY as a UN institution).[28]

In a similar vein, Fé de Jonge critically examines the objectives of the Tribunal's archives, highlighting a disconnect between the value ascribed by the ICTY and IRMCT to the archives for the victims of the atrocities and the actual organization, presentation, and accessibility of these records. She criticizes the formalistic approach that confines the archives to being merely "evidence" or legal commodities, arguing that this perspective diminishes the significance and value of the archives for the victims by overlooking the fact that "the records encompass the experiences of individual victims, their stories, and memories." De Jonge raises questions about ownership of the archives, since victims are being treated as just one of many user groups—alongside for instance journalists, historians, and other interested parties—rather than as primary stakeholders. This is further illustrated by methods of access to the archives: the online databases categorize and describe records based solely on their legal significance, which, while understandable from the ICTY's perspective, falls short from the perspective of the victims.[29]

In addition to the organizational challenges, physical accessibility is a major concern, as the archives are located far from where many victims live, even though there are currently no visa requirements for travel between Balkan countries and the Netherlands. De Jonge also points out the psychological distance created by housing the archives in a building that serves as a court. Such buildings are "designed to convey the power of the law, inspiring respect, reverence, and awe in those who enter. They are naturally imposing, and the building housing the IRMCT and ICTY archives is no different," further distancing victims from the records that are supposed to represent their experiences.[30] The notion that the digitization of a substantial portion of the archives no longer requires a visit to The Hague is only partially accurate, as the archive also includes artifacts like personal belongings of victims, some of which, to the dismay of the victims' relatives, have already been destroyed in accordance with existing judicial procedures.[31]

Julia Viebach examines archives through the lens of transitional justice, emphasizing the influence of institutional frameworks and normative templates[32] that dictate which narratives are preserved in tribunal records.

Her analysis demonstrates how the role of witnesses is constructed by the legal processes governing their selection, leading to the conclusion that "[t]he witness is, in this sense, positioned as a vessel that holds information that, if successfully unloaded, can help to make the legal case. This specific subject position of the witness will, at the stage of the trial, constrain what the witness can speak to and hence what stories will reside in the archive."[33]

We can conclude that the value of the Tribunal archives is considered substantial; however, these archives do not speak for themselves. Their value can only be realized if the archives are activated, for instance by establishing a clearer connection with the target audiences and ensuring that primary stakeholders have some form of agency. A critical approach to these archives is crucial to understanding why they are as they are, and thus to discerning which voices are represented, and which are not.

Recording Evidence and Keeping Records

A glance at the scale of the ICTY's achievements expressed in numbers reveals an impressive result. A total of 161 individuals were indicted, of whom 92 were sentenced, 19 acquitted, 37 terminated or indictments withdrawn, and 13 referred. In total, more than 4,650 witnesses were heard, there were 10,800 trial days and the transcripts alone amount to more than 2.5 million pages.[34] One single case brought before a judge could result in a file containing more than 10,000 documents, as for instance in the trial against Radovan Karadžić. In addition, the volume of videotaped public trials totals approximately 60,000 hours.[35] The size of the archives is significantly larger when we consider the total number of documents produced by the ICTY's investigations. Since 1994, the Office of the Prosecutor has interviewed approximately 10,000 witnesses, and in 2018 the total evidence collection of the Prosecutor comprised around 10 million pages of documents, 14,000 audio recordings, 9,000 video recordings, 3,500 discs, and 14,000 artifacts.[36] It is estimated that less than 10 percent of this enormous collection has actually been used in ICTY proceedings.[37] Currently, only the non-classified records that are part of the files presented in court proceedings are publicly accessible. This means that most of the collected material is still inaccessible at this time. Although some are calling for full disclosure of the unclassified documents from the prosecutor's archive,[38] it is more likely that this will take a long time.

To comprehend the contents of the archive, it is necessary to understand the Tribunal's working methods. To explain the procedures in simple terms:

the Office of the Prosecutor initiates investigations, collects evidence, files charges, and argues cases in court.[39] The charges form the basis of the legal process, where the prosecutor presents legal arguments based on the evidence collected. The defendant, often but not always with legal representation, responds by contesting the evidence and the accuser's case and by presenting counter arguments and evidence. The majority of the cases, and therefore most of the archives, relate to Bosnia and Herzegovina. It is estimated that approximately three quarters of ICTY cases target Bosnia and Herzegovina. In Croatia and Kosovo, prosecutors filed charges for crimes committed between 1991 and 1995 and between 1998 and 1999, respectively, while relatively little attention was paid to the relatively lower levels of violence in present-day North Macedonia. The archive therefore reflects the choices made by the prosecutor.[40]

For a proper understanding of the structure and content of the ICTY archives, it is also important to look at who created the records and for what purposes. Figure 4.1 provides an organizational chart of the Tribunal and the various entities within it that created records: the Chambers, the President's office, the Office of the Prosecutor[41] , and the Registry. If the nature of the records is taken as a starting point, four main categories of records can be distinguished: judicial records of cases that are brought before a judge or before the chambers; records created by the prosecutor; judicial records which are not created by the prosecutor and not part of a case brought before the Tribunal, and administrative records relating to running the Tribunal and the provision of support services. Since the defense counsel is not an organ of the Tribunal, records created by the defense, including evidence gathered by the defense counsel, are only part of the Tribunal's records if these are admitted and presented in the trial.[42]

Although drawn up in a later period to safeguard the legacy of the Tribunal, so that the experiences and working methods developed by the ICTY could be used for future UN activities, the *ICTY Manual on Developed Practices*[43] issued in 2009 offers much valuable information about procedures and working methods, including records management and archiving of the ICTY. For example, it provides detailed insight into which information has been recorded at the different phases of an investigation relating to witnesses, victims, suspects, and experts, how the evidence in different forms was recorded, and how these records are managed.[44]

At the time the Tribunal was in full operation, it was the judges, prosecutors, and the defense counsel staff who used the records to carry out their work and it was expected that this would not fundamentally change as the Tribunal transformed into a residual mechanism. It was anticipated

ORGANISATION OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

CHAMBERS

The President

Trial Chamber 1

Trial Chamber 2

Trial Chamber 3

Each Trial Chamber hears and conducts trial proceedings as initiated against persons indicted by the prosecutor. Trial Chambers are responsible for issuing judgements and, if the accused is found guilty, for imposing sentences.
Three Judges sit on each Trial Chamber.

Appeals Chamber

The Appeals Chamber hears appeals from the accused or from the Prosecutor relating to a Decision or Judgement and/or sentence by a Trial Chamber. Each Appeals Chamber bench is comprised of five judges.
Note: Judges of the Appeals Chamber of the ICTY also serve as judges of the Appeals Chamber of the International Criminal Tribunal for Rwanda.

OFFICE OF THE PROSECUTOR

The Prosecutor

Prosecution Division

- Trial Teams
- Military Analyst Team
- Leadership Research Team
- Trial Support Unit
- Information and Evidence Section
- Mapping Library and Photovisual Reproduction Unit
- Geographic Information Systems Unit

The Prosecution Division is responsible for all aspects of preparation and presentation of prosecution cases at trial. Each case is handled by a multidisciplinary team of lawyers, investigators, analysts and support staff.

Immediate Office

- Transition Team
- Request Unit
- Field Offices

The Immediate Office provides overall management and direction of the Prosecutor's Office. It is responsible for formulating policies, dealing with issues relevant to obtaining the cooperation of states, transferring cases to and other capacity building efforts with the region of the former Yugoslavia, preparing the OTP budget and various reports for submission to the United Nations.

Appeals Division

The Appeals Division is responsible for all aspects of appeals proceedings following the completion of a trial. It also assists with appeals that may arise during the course of trial proceedings.

REGISTRY

The Registrar

Division of Judicial Support Services

- Court Support Services
  - Courtroom Operations
  - Witness Support (Witness Protection under MICT)
  - Legal Aid and Defence matters
  - Judicial Records
- Translation and Interpretation
- Detention Unit

The Division of Judicial Support Services is responsible for, managing courtroom operations and performing other support functions. This includes support to victims and witnesses; the provision of legal aid through the assignment of defence counsel; the management of archives and records (in coordination with the MICT); the translation and interpretation of court activities, and the management of the Detention Unit.

Immediate Office

- Overall Registry Policy
- General Administrative and Legal Issues
- Support to MICT
- Public Information
- Outreach
- Registry Field Officers

The Immediate Office of the Registrar has oversight of all Registry functions and provides advice on legal and policy issues ranging from staff rules and administration to cooperation with States, including the Host State; enforcement of sentences; relocation of witnesses; assistance to national jurisdictions and external relations. It is responsible for internal and external communication, including through its Registry Liaison Officers in the countries of the former Yugoslavia. The Immediate Office also oversees the implementation of the ICTY's completion strategy and the coordination of transition to the MICT with continued support for MICT's operations.

Chambers Legal Support Section

The Chambers Legal Support Section consists of legal and administrative staff members directly assigned to assist the judges in the various aspects of their duties as well as of "floater" staff members assigned to cases at trial or on appeal. Members of the Chambers Legal Support Section are employed by the Registry and assist the judges in conducting research, managing cases and drafting orders/decisions/judgements and legal opinions.

Administration Division

- Budget
- Finance
- Human Resources
- Information Technology Support
- Procurement
- General Services
- Security and Safety

The Administration Division supports the judicial activities of the Tribunal through the provision of administrative services, including budgetary and finance aspects. It manages human resources, supports the information technologies used by the organisation, and deals with the activities of the headquarters and of the field offices. Security and Safety are also under the responsibility of the Administration Division.

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Figure 4.1. Organizational chart of the ICTY. https://www.icty.org/en/about/tribunal/organisational-chart.

that records would continue to play an important role in the prosecution of fugitive suspects. The same applies to safeguarding the interests of witnesses where, for example, if they do not feel safe or are intimidated, it must quickly be established what has been determined regarding the witness's security. Access to the records is then crucial. Other examples of legal use of the documents that may continue for some time relate, for example, to requests for review of a judgment and requests for pardon. National authorities prosecuting individuals may also need access to the records in some cases. There is an ongoing collaboration between the Prosecutor of the Mechanism with the prosecutors in the former Yugoslavia, which, to a significant extent, concerns providing access to the OTP documents. Finally, mention is also made of tribunal employees, who may have an interest in viewing their own personnel records.

Housing the Records

At the end of 2023, the Special Tribunal for Lebanon, located in The Hague, closed its doors. Its archives were transferred to the United Nations Archives and Records Management Section in New York City, and the Tribunal's website, which had made all non-confidential documents available, was decommissioned due to a lack of financial resources. In July 2024, thanks to an initiative by the Stanford Center for Human Rights and International Justice, a first step was taken to restoring online access to parts of the archives, with plans to expand digital availability further in the coming months.[45] This highlights the extreme vulnerability of the digital accessibility of archives from temporary tribunals, because of the absence of a sustainable digital and organizational infrastructure. The international archival community, through the International Council on Archives, is increasingly concerned about the fate of the archives of the temporary tribunals and advocates finding a sustainable solution.[46] Sustainable housing and sustainable access should be given the highest priority. This section addresses the issue of the housing of the ICTY archives in general, and more specifically in relation to the Churchillplein 1 building.

Since the ICTY was established by the Security Council of the United Nations, the UN has authority over the records created by the Tribunal. This means that absent other provisions, it is likely that the records will eventually be transferred to the UN Archives Unit in New York City. This is of concern for various reasons, as the UN Archives Unit in New York City is considered by many not to be the most suitable location to professionally

Figure 4.2. The Tribunal's audio-visual archive, Churchillplein 1. The archive holds more than 60,000 hours of public court proceedings. In 2010, the Tribunal embarked on a project to digitize its recordings of hearings from tapes, which were subject to deterioration over time. The digitization preserved these valuable recordings and facilitate future public access to the Tribunal's hearings. Photo ICTY.

house these records.[47] In 2005, Trudy Huskamp Peterson examined the status of several temporary international criminal courts, including the ICTY.[48] She feared that once the mandate of the Tribunals expired and the Tribunals closed, the archives would be stored somewhere without a guarantee of access. This would have serious consequences for stakeholders with an interest in these records. Huskamp Peterson made recommendations to ensure that these records would be properly managed after the closure of the temporary criminal courts so that they could continue to play a role as important resources for victims, civic activists, legal researchers, academics, documentary filmmakers, educators, and successors to current court officials. She argued that there were pragmatic and fundamental reasons to keep the records of the Yugoslavia and Rwanda tribunals in one place: "[n]ot only did they share a chief prosecutor for many years, but a single appellate court continues to serve them both. Their jurisprudence together forms the basis of the subsequent courts, just as the two tribunals looked back to post-World War II courts."[49]

Huskamp Peterson's analysis deemed the UN archival repositories in New York City unsuitable for several reasons. First, the facilities were insufficient

to house these trial records and more importantly, both potential users and current court staff felt that housing the archives in New York was too far from the locations where the trial events occurred and from the current locations of the courts. She argued that The Hague was the ideal location to house the archives of the tribunals, not least because the city "advertises itself as the 'world capital of peace and justice,'" noting that it is the home of the Permanent Court of Arbitration, the ICC, the ICJ, the Academy of International Law, the Organization for the Prohibition of Chemical Weapons, and Europol, as well as the ICTY."[50] Moreover, the Municipality of The Hague, as an International City of Peace, Justice, and Security, was interested in investing in valorizing the work and knowledge of international organizations such as the ICTY and ICC. After all, in The Hague, "international criminal law is, as it were, created and therefore innovated. The judgments that are prepared, made and made public in The Hague are seen as innovations with a global impact. The Hague is therefore a logical location for the Judicial UN Archives Service."[51]

The issue of the archive became urgent over the years that followed. It was not immediately obvious that the ICTY and its archives would remain in the existing building in The Hague[52] , as an extended stay would necessitate significant upgrades to both the courtroom and the creation of archive spaces meeting conservation standards. The closure of the Tribunal was initially planned for 2010 and it was decided that the essential functions, jurisdiction, rights and obligations of the ICTY would be continued by an International Residual Mechanism for Criminal Tribunals.[53] In December 2008 the Security Council asked the Secretary-General to submit a report within 90 days detailing the administrative and budgetary aspects of potential locations for the Tribunal archives and the seat of the residual mechanism. The report should include the availability of suitable premises for judicial proceedings of the residual mechanism, particularly focusing on locations where the United Nations already had a presence.[54] One of the more fundamental questions posed by the Informal Working group on International Tribunals[55] was whether the residual mechanism(s) with tasks such as "trial of fugitives; the protection of witnesses; the supervision of sentences; the review of judgements; the referral of cases to national jurisdictions; proceedings for contempt; the prevention of double jeopardy; issues relating to defense counsel and legal aid; claims for compensation; public information and capacity-building; and issues relating to human resources," should be co-located with these archives.[56]

In May 2009, the Secretary-General sent a 60-page report on the administrative and budgetary aspects of the options for possible locations

of the ICTY and ICTR to the Security Council.[57] The report relied heavily on a report from the Advisory Committee on Archives established by the registrars of the ICTY and ICTR to provide advice on the requirements for future housing of the archives. The report mapped out a large number of scenarios and provided substantive and strategic arguments for and against the various scenarios, including the costs involved, but did not express a clear preference for any specific scenario. However, it was indicated that "[t]he interests of the populations who were directly affected by the conflicts should be borne in mind. The public parts of the archives, which are tools for fostering reconciliation and memory, should be accessible to those populations in some form." It was also noted that some countries of the former Yugoslavia had themselves indicated that both the mechanism and the archives should be housed outside the former Yugoslavia, but the Secretary-General stated that "this does not preclude the establishment of information centers in the affected countries to give access to copies of the public record, or the most important parts thereof."[58]

Some stakeholders also wanted to have the archives in their countries. In 2009/2010, Catherine Marchi-Uhel, Head of Chambers at the ICTY, conducted a feasibility study on behalf of ICTY President Robinson on the establishment of information centers in the region. She consulted government officials, members of prosecutorial and judicial authorities, civil society representatives, victims' groups, academics, archivists, and representatives of the international community in Bosnia and Herzegovina, Croatia, Serbia, Montenegro, Kosovo, and the Former Yugoslav Republic of Macedonia to gauge interest in setting up information centers in the region. Opinions were strongly divided as to whether the archives should be housed in the region in the future,[59] but many of the stakeholders consulted were largely positive about information centers, since they might help interested parties understand how to search the ICTY archive database and how to find and interpret documents they were looking for. The need to consult the archives in local languages such as Bosnian, Croatian, and Serbian was emphasized.[60] In line with this, Navanethem Pillay, who served as a judge in the ICTR and later as the United Nations High Commissioner for Human Rights, identified one important task for information centers in the region in that they "would focus on transforming the ICTY documents into a form that would be meaningful and educational to regional citizens."[61]

Another important role interviewees envisaged for the information centers was the further development of outreach activities. On the level of the central national governments, the response was more reserved, and they generally did not wish to comment on which institutions were most

suitable to become information centers. Most interviewees who did express a view thought it important for the information centers to operate under the flag of the UN, in order to prevent the telling of one-sided stories. The information centers were expected to contribute to education, reconciliation, support to the activities of parties working to strengthen civil society, and support to the work of local prosecution and trial authorities.[62] In Bosnia and Herzegovina it was the municipality of Sarajevo that showed great interest in accommodating an information center, which duly opened in 2018.[63]

ICTY Archives and Churchillplein 1

With the rise of modern archival institutions, a development that in Europe dates back to the late 18th century, records and archives deemed important from a socio-cultural perspective are increasingly managed by organizations dedicated to this core mission. These are mostly state and municipal archives, which follow a standardized model. They acquire the archives of institutions and individuals to safeguard them for the future and provide access for researchers and other interested parties. Consequently, archives are physically removed from their original context and transferred to the repositories of these archival institutions, breaking the bond between the archive and its original location.

Although there is a broad consensus among scholars working with records and archives that context is paramount, it is notable that little research has explicitly examined the potential relationship between the place where records are produced and their meaning for communities of users and communities of memory. It even appears that the place is becoming less important due to the digitization of the archives. Some studies in this field have provided new insights. Notably, in 2018, an international workshop on atrocity archives at the University of Oxford examined the critical role of archives in transitional justice. One conclusion was that archives have a special relationship with place because they can "redefine, reconstitute and re-occupy space, for example by locating an archive at a former site of decision-making or of atrocity."[64] Similarly, archival scholar Belinda Battley investigated the role of place, records and community memory. Researching for her Ph.D., she found that the place where records are created, kept, and used is a "constitutive co-ingredient" of the records and the collective memory of a community. She argued that it is therefore important to ensure "that community records continue to be maintained in places of belonging for the community."[65] Interestingly, in 2005 the Dutch Council for Culture

emphasized the added value of an integrated method of appraisal of archives tailored to the context of the environment in which these were created. The Council called this perspective a form of appraisal based on "coherent heritage complexes" where various components such as building, interior, and archives are seen as an ensemble.[66] The preservation of the archives of the East German Ministry of State Security (Ministerium für Staatssicherheit, the "Stasi") in their environment of origin offers a pertinent example. In 2020, the German Parliament, the Bundestag, decided that these archives should be integrated into the German State Archives. In 2016, a group of experts had advised the Bundestag to initiate this integration, but in order to preserve the symbolic significance that had accompanied the opening of the Stasi files, those documents should be kept in a distinct environment within the Bundesarchiv. It was also stipulated that around 50 percent of the secret police documents housed in the former Stasi headquarters in Berlin must remain at their current location, preserved in their original context, and made accessible for use. Efforts should be undertaken to establish the necessary conditions—such as guided tours and events in collaboration with other on-site institutions—while ensuring the preservation of the documents, so that those directly affected, as well as other interested parties, could continue to grasp the nature and extent of the secret police files.[67]

In the interviews conducted for the present study, participants repeatedly emphasized that the memory value of the ICTY for communities and stakeholders cannot be separated into building, interior, and archives, as these elements are inextricably linked. In line with the studies mentioned above, the interviewees affirmed that the place—the building—is the carrier of the memory, together with a living function, "a living memorial to the ICTY's work," hosting various events and educational visits and providing researchers access to its archives.[68]

All respondents indicated, either explicitly or implicitly, that preserving the former ICTY building for memorialization purposes would require incorporating the ICTY archive as a key element. They saw the ICTY archive as essential to all possible forms of memorialization. According to them, the archive would serve researchers and be pivotal in more advanced initiatives such as reconciliation and post-conflict efforts.[69] One interviewee put it as follows: the building should serve as a museum, documentation center or whatever it might be called, because it is "a symbol that war crimes cannot be unpunished, so also looking at what is happening now in the world, war crimes, violation of human rights, cannot go unpunished,"[70] while another interviewee said "[t]he ICTY is a memorial, simply as an archive that stays in

place in the Hague because that is also kind of an anchor for the narrative, for justice."[71]

Concluding Remarks

Based on the above, we can draw several conclusions. The tribunal archives (including the records currently managed by the prosecutor and not yet publicly available) represent inestimable value for various stakeholders. This value can be further enhanced by tailoring the access and usability of the archives to better meet the needs and interests of these stakeholders, primarily victims, but also, for example, in the context of education.

The issue of what constitutes the best location for the archives is not straightforward. Housing the archives at the site where the Tribunal was based represents significant value because the archives form part of an integrated complex of components that together represent the Tribunal. The Churchillplein 1 building complex performs its memorial functions together with its internal former judicial spaces, visitor areas and offices—and the archives. The building and the archives are not only physically inseparable, but throughout the operation of the ICTY they became procedurally, and thus also from a memory perspective, interdependent. Not only via the arrival at and movement of the accused, witnesses, employees, media, and the public, but also through the activation of archival documents by legal teams, researchers, witnesses, archivists, and various other stakeholders in different rooms within the building. The presentation of the 3D model of the Omarska "White House," or courtroom witnesses' actual hand drawings on a map of execution sites, for example, make Churchillplein 1 the place of memory where archives were activated and used for a specific purpose.

However, it is also a location that is outside the former war zone. Due to ongoing tensions in parts of the former Yugoslavia, housing the archives in the region is not a realistic option at this time. In addition, it is questionable to what extent the UN would be prepared seriously to consider relocating the archives to the region. On the other hand, the distance between the former Yugoslavian countries and The Hague presents a substantial barrier. While the digitization of large portions of the archives has made remote research possible, there is also an emotional connection between physical documents and artifacts and the victims and their families that cannot be fully conveyed through digital means. The approach previously adopted, in which the archives are centralized in The Hague with information centers acting as satellites in the region, aims to keep the ICTY legacy alive from

a future-oriented perspective. This model includes programs to activate the stories contained within the archives, and to inform and engage target audiences. This approach could be further developed. We also note the responsibility of the Dutch national government and the Municipality of The Hague, given the latter's profile as "City of Peace and Justice," for promoting and supporting the preservation, usability, and vitality of this legacy.

Notes

1. Verne Harris, *Ghosts of Archive. Deconstructive Intersectionality and Praxis* (London/New York: Routledge) 62-63.
2. In 1950, the Nuremberg Trial Archives (International Military Tribunal) were entrusted to the International Court of Justice in The Hague. Other parts of the International Military Tribunal records are kept by the US National Archives and some other (private) collections in the world.
3. However, it has become clear from interviews with employees of the IRMCT that the collection of artifacts is no longer complete. For a glimpse of artifacts and documents as evidence, see: Jorie Horsthuis, "Evidence of atrocities: Fragments of the Bosnian War" *Politico*, March 20, 2019. https://www.politico.eu/interactive/evidence-of-atrocities-fragments-of-the-bosnian-war/. Fé de Jonge describes how it came to light in 2009 that around 1,000 artifacts had been destroyed under the authority of the Office of the Prosecutor and in accordance with court procedures. These artifacts had been found in mass graves and thus served as evidence of the massacre that took place after the fall of Srebrenica. According to the Prosecutor, these artifacts posed a health risk due to decomposition. De Jonge describes the outrage this caused among the survivors and victims' relatives. She quotes the founder of the Mothers of Srebrenica as follows: "[w]hat the Hague did is a crime. In Srebrenica, they killed our children and in the Hague, our memories." See Fé de Jonge, "Shared Memories, Shared Records, Shared Ownership: The Presence of Victims in the Preservation, Articulation, and Retrieval of the ICTY Archives," In H. Ruiz Fabri, V. Rosoux, & A. Donati eds., *Studies of the Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law* (Baden-Baden: Nomos, 2003) 93-94.
4. Otto Spijkers, "Legal Monuments for Srebrenica in the Hague" (2021) 36(2) *Utrecht Journal of International and European Law* 118–126. DOI: *https:// doi.org/10.5334/ujiel.542*.
5. David Kaye, "Archiving justice: conceptualizing the archives of the United Nations International Criminal Tribunal for the former Yugoslavia" in *Archival Science* (2014) 14: 381-396.
6. https://www.icty.org/x/file/About/Reports%20and%20Publications/ICTY_Manual_on_Developed_Practices.pdf.

7. Ann Laura Stoler, *Along the Archival Grain. Epistemic Anxieties and Colonial Common Sense* (Princeton/Oxford 2009).
8. Julia Viebach, Dagmar Hovestädt & Ulrike Lühe (2021) Beyond evidence: the use of archives in transitional justice, *The International Journal of Human Rights*, 25:3, 381-402, esp. 396.
9. Eric Stover, *The witnesses: war crimes and the promise of justice in The Hague* (University of Pennsylvania Press, Philadelphia, 2007) 126-127.
10. Rules of Procedure and Evidence, adopted on February 11, 1994, rule 81-a.
11. Eric Ketelaar, "A living archive, shared by communities of records," in J.A. Bastian, B. Alexander (eds.) *Community Archives: The Shaping of Memory*. (Facet 2009) 109-132.
12. "Second Day, Wednesday, 11/21/1945, Part 04," in *Trial of the Major War Criminals before the International Military Tribunal*. Volume II. Proceedings: 11/14/1945-11/30/1945. https://www.roberthjackson.org/speech-and-writing/opening- statement-before-the-international-military-tribunal/
13. Justice Jackson's final report to the President concerning the Nuremberg war crimes trial, October 7, 1946. https://www.roberthjackson.org/speech-and-writing/justice-jacksons-final-report/ Interestingly, in his report to the President of the United States, Jackson drew attention to careful records and archive management, and his words have lost little of their relevance to similar tribunals: "Another item of unfinished business concerns the permanent custody of captured documents. In the hands of the prosecution and of various agencies there are large numbers of documents in addition to those that have been used which have not been examined or translated but which probably contain much valuable information. These are the property of the United States. They should be collected, classified, and indexed. Some of them may hold special interest for particular agencies; all of them should be available ultimately to the public. Unless some qualified agency, such as the Library of Congress, is made responsible for this work and authorized to take custody on behalf of the United States, there is considerable danger that these documents will become scattered, destroyed, or buried in specialized archives. The matter is of such importance as to warrant calling it to your attention."
14. Antonio Cassese, "The ICTY: A Living and Vital Reality," *Journal of International Criminal Justice* 2 (2004) 585-597.
15. See for instance the ICTY production and documentary "Srebrenica Genocide: No Room For Denial" (2017).
16. Martha Minow, *Between Vengeance and Forgiveness. Facing History after Genocide and Mass Violence* (Beacon Press Boston 1998) 47.
17. Julia Viebach (2021) "Transitional archives: towards a conceptualisation of archives in transitional justice," *The International Journal of Human Rights,* 25:3, 403-439, DOI: 10.1080/13642987.2020.1811693.
18. https://digitallibrary.un.org/record/541829?v=pdf Report of the independent expert to update the Set of principles to combat impunity, Diane

Orentlicher and Updated Set of principles for the protection and promotion of human rights through action to combat impunity.

19. Principle 4 states: "Irrespective of any legal proceedings, victims and their families have the imprescriptible right to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victims' fate." However, the interests of the persons appearing in these documents must also be taken into account, because Principle 15 states that "Access to archives should also be facilitated in the interest of historical research, subject to reasonable restrictions aimed at safeguarding the privacy and security of victims and other individuals. Formal requirements governing access may not be used for purposes of censorship."

20. "Every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes. Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations." (Principle 2).
Dermot Groome writes in a commentary on this principle that this right is "realized through laws enabling requests for state-held information; archives; truth commissions; national and international courts; and human rights commissions. At this juncture, while the precise contours of the right to truth are still being delineated, it has achieved customary status to the extent that individuals have the right to know the truth about grave violations of human rights affecting them." See: Frank Haldemann and Thomas Unger (eds.), *The United Nations Principles to Combat Impunity: A Commentary* (Oxford: Oxford University Press, 2018), 59.
On December 18, 2013. the General Assembly of the UN adopted Resolution 68/165, "Right to the truth," see: https://digitallibrary.un.org/record/764405?v=pdf incorporating Article 10, which "Encourages States that have not yet done so to establish a national archival policy that ensures that all archives pertaining to human rights are preserved and protected and to enact legislation that declares that the documentary heritage of the nation is to be retained and preserved and that creates a framework for managing State records from their creation to their destruction or preservation, and takes note in this regard of ongoing efforts by the Human Rights Council, the Office of the United Nations High Commissioner for Human Rights, the United Nations Educational, Scientific and Cultural Organization, regional organizations and other stakeholders to systematize existing standards in the area of access to information, the protection and preservation of records and the management of archives.

21. Valentina Cadelo and Trudy Huskamp Peterson, "Principle 14: Measures for the Preservation of Archives," in Frank Haldemann and Thomas Unger (eds.), *The United Nations Principles to Combat Impunity: A Commentary* (Oxford: Oxford University Press, 2018), 163.

22. Minow, 26.
23. See for instance: Tom Adami and Martha Hunt, "Reconciliation in Regions Affected by Armed Conflict: The Role of Archives" in Avery, Cheryl and Holmlund, Mona (eds.). *Better Off Forgetting? Essays on Archives, Public Policy and Collective Memory*, Toronto: University of Toronto Press, 2010. https://doi-org.proxy.uba.uva.nl/10.3138/9781442689879; Rydén, R. "National archives, national memory? How national archives describe themselves and their mission," *Archival Science* 23, 297– 326 (2023). https://doi.org/10.1007/s10502-023-09409-7; Lemieux, V., Gallant, A., Pourmalek, P. et al. "Designing recordkeeping systems for transitional justice and peace: 'on the ground' experiences and practices relating to organizations supporting conflict-affected peoples," *Archival Science* 24, 227–255 (2024). https://doi.org/10.1007/s10502-024-09439-9; Barrowcliffe R. (2021) "Closing the narrative gap: social media as a tool to reconcile institutional archival narratives with Indigenous counter-narratives," *Archives & Manuscripts*, 49(3), 151-166. https://doi:10.1080/01576895.2021.1883074; Frogner, Raymond, Crystal Gail Fraser, Greg Bak, and Genevieve Weber. 2024. "A Conversation about the Reconciliation Framework." *Archivaria* 97 (May), 178-202. https://archivaria.ca/index.php/archivaria/article/view/13965; Robichaud, Danielle. 2021. "Integrating Equity and Reconciliation Work into Archival Descriptive Practice at the University of Waterloo." *Archivaria* 91 (June), 74-103. https://archivaria.ca/index.php/archivaria/article/view/13789.
24. Refik Hodžić, "A Long Road Yet to Reconciliation: The Impact of the ICTY on Reconciliation and Victims' Perceptions of Criminal Justice" in Richard H. Steinberg (ed.), *Assessing the Legacy of the ICTY* (2011) 115-119.
25. This was recently confirmed once again in the Report of the Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence, *Memorialization processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice.* Human Rights Council Forty-fifth session September 14 – October 2, 2020. See https://digitallibrary.un.org/record/3875086?ln=en&v=pdf.
26. Eric Ketelaar, "Archives as Spaces of Memory," *Journal of the Society of Archivists* (2008) 29:1,9-27.
27. Kaye, "Archiving Justice," 390.
28. Kaye, "Archiving Justice," 392-393.
29. Fé de Jonge, "Shared Memories, Shared Records, Shared Ownership: The Presence of Victims in the Preservation, Articulation, and Retrieval of the ICTY Archives" In H. Ruiz Fabri, V. Rosoux, & A. Donati (eds.), *Studies of the Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law* (Baden-Baden: Nomos, 2003) 93-122.
30. De Jonge, "Shared Memories." 113-114.
31. De Jonge, "Shared Memories," 93-94.
32. See also Kirsten Campbell, "The Laws of Memory: The ICTY, the Archive, and Transitional Justice," *Social & Legal Studies* 22, no. 2 (2012): 247–69.

33. Viebach, Transitional archives, 422.
34. https://www.icty.org/node/9590 infographics. The infographic still mentions 90 individuals sentenced and 2 in retrial, but these retrials were completed in 2023.
35. https://www.icty.org/en/press/icty-digitise-video-recordings-its-court-proceedings. The digitized audio and video files together have an estimated size of one zettabyte. See Bridget Sisk, "The role of the UN Archives in the Long-Term Legacy of the ICTY" in Richard H. Steinberg (ed.), *Assessing the Legacy of the ICTY* (2011), 73-74.
36. Archival scholar Eric Ketelaar estimated that approximately 70% of the Tribunal records are records of the Office of the Prosecutor (OTP). See Ketelaar, Living Archive, 111. For an impression of the volume of the Nuremberg records we have to rely on Robert Kempner's description who mentioned "the tremendous amount of documentary and testimonial evidence brought to light in the course of the trials" in Nuremberg which "amounts to 2,500 pages of judgements running to one million words. The Court transcripts total 134,765 mimeographed pages averaging 250 words in addition to 10,000 printed pages of the record of the International Military Tribunal." The court exhibits amounted to 42,000 and the total number of documents reproduced for the trials exceeded 750,000. See Robert M. W. Kempner, "The Nuremberg Trials as Sources of Recent German Political and Historical Materials" in *The American Political Science Review* , June 1950, Vol. 44, No. 2 (1950), 447-459.
37. P. Dojčinović, "The Truths of the War," Leuven Transitional Justice Blog. 11 October 2018. Dojčinović worked for the Office of the Prosecutor of the ICTY . See also Wilson & Baas Wilson, R.A., Baas, S. (December 2016) *Open the Archives of the Yugoslavia Tribunal!* [Open letter]. https://law.kuleuven.be/ltjb/category/blog-post/page/16/; https://balkaninsight.com/2016/03/30/safeguarding-the-yugoslavia-tribunal-s-unique-war-archives-03-29-2016/; Donia & Bećirević (April 4, 2008) *ICTY Archive Must Be Open to All* [Open letter]. https://iwpr.net/global-voices/icty-archive-must-be- open-all.
38. Donia & Bećirević (April 4, 2008) *ICTY Archive Must Be Open to All* [Open letter]. https://iwpr.net/global-voices/icty-archive-must-be-open-all
39. Susan Schuppli provides a small glimpse into the depots where the prosecutor stores evidence. Based on an interview with Bob Reid, Chief of Operations for the ICTY in 2013, she writes: "In the vault of the OTP, the numeric labels assigned to each storage unit are preceded by a letter that immediately denotes their contents: K is for Kosovo, O for Omarska, S for Srebrenica, X for exhumation, V for videotape, T for transcript, and so on. (…) It is in this archive that the most sensitive and rare evidence is stored, including all the exhumation records and X-rays from Srebrenica as well as the eighteen Mladić notebooks, containing 3,500 pages of meticulous handwritten notes documenting every meeting that he (General Ratko Mladić) attended during the war in Bosnia from 1992 to 1995." See Susan Schuppli, "Entering

Evidence: Cross-Examining the Court Records at the ICTY" in *Forensis. The Architecture of Public Truth* London: Steinberg Press (2014), 279-315.

40. Iva Vukušić, "Archives of Mass Violence: Understanding and Using ICTY Trial Records" *Comparative Southeast European Studies* 2022; 70(4): 585–607.
41. The Office of the Prosecutor retains documents and materials like video or audiotapes, artifacts, interviews, statements from suspects, victims, and witnesses, and information from various organizations. Records not used in trials are managed exclusively by the Office of the Prosecutor and include prosecution policy documents and correspondence. These will remain closed until the prosecutor decides differently, but there is no clear procedure. These records were not seen by the Committee during the visits to the IRMCT. As noted in the foregoing footnote, Susan Schuppli does provide a glimpse into the prosecutor's archive.
42. Directive on the Assignment of Defence Counsel (directive NO. 1/94) "Lead counsel shall keep a complete and accurate case file of all documentation related to the case and of all work performed by the defence team during the representation of the suspect or accused. Subject to his obligations under the Code of Conduct, lead counsel shall retain the case file for five years after the completion of proceedings relating to the suspect or accused before the Tribunal." https://www.icty.org/x/file/Legal%20Library/Defence/Assignment_of_counsel_july2006.pdf.
43. The manual is primarily intended to share the Tribunal's practices with domestic jurisdictions in the former Yugoslavia, to assist in war crimes prosecutions. But this manual also has a broader purpose: to provide information from those intimately involved in the process to all national and international jurisdictions faced with the task of prosecuting crimes committed during armed conflict. See: https://www.icty.org/x/file/About/Reports%20and%20Publications/ICTY_Manual_on_Developed_Practices.pdf.
44. https://www.icty.org/x/file/About/Reports%20and%20Publications/ICTY_Manual_on_Developed_Practices.pdf.
45. https://humanrights.stanford.edu/news/virtual-tribunals-debuts-special-tribunal-lebanon-collection (accessed September 13, 2024).
46. ICA & Swiss Peace, "Ensuring the Preservation of and Access to the Records of Temporary International Criminal Courts and Investigative Mechanisms" *Side Event to the 57th Human Rights Council* (Geneva, September 12, 2024) https://www.ica.org/un-human-rights-council-side-event-the-ica-advocates-for-the-preservation-of-and-access-to-the-records-of- temporary-international-criminal-courts/ (accessed September 13, 2024).
47. During a presentation, Stephen Haufek, chief of the Archives Unit at the UN, stated that tribunal records are fundamentally different in nature from the records managed by the archives unit at the UN. The creation of evidence from the records is a primary purpose of the Tribunals, whereas most of the records managed by the UN archives section are byproducts of activities like peacekeeping. Managing these tribunal records to ensure their continued use for various purposes, including legal ones, requires expertise that is only

available within the courts. Statement made in his presentation at the *Side Event to the 57th Human Rights Council* in Geneva, September 12, 2024.

48. Trudy Huskamp Peterson wrote this report while she was a grantee of the United States Institute of Peace. During that time, she visited the ICTY, interviewed staff members, lawyers, academics, archivists, and human rights activists, and reviewed files of the UN Archives on the records of the courts. In addition to the ICTY, she investigated the International Criminal Tribunal for Rwanda (ICTR), the Special Court for Sierra Leone (SCSL), the Special Panels and Serious Crimes Unit in East Timor, and the internationalized courts and prosecutors in Kosovo. Huskamp Peterson has been president of the Society of American Archivists and the International Conference of the Round Table on Archives. She served as acting archivist of the United States from 1993 to 1995, was the founding executive director of the Open Society Archives, and directed the archives and records program for the United Nations High Commissioner for Refugees.
49. Trudy Huskamp Peterson, "Temporary Courts, Permanent Records," *United States Institute of Peace. Special Report* 170 (August 2006) 9.
50. Trudy Huskamp Peterson, "Temporary Courts, Permanent Records," *United States Institute of Peace. Special Report* 170 (August 2006), 10.
51. Den Haag Dienst Stedelijke Ontwikkeling, *Position paper Den Haag, Internationale stad van recht en bestuur. Werken aan de Wereld*, with a foreword by Mayor Wim Deetman (The Hague 2005). The Municipality of The Hague indicated that it wanted to investigate the feasibility of establishing the Judicial Archives Service in The Hague together with the government and the institutions in the city. An investment of approximately € 100 million was deemed necessary for the construction and furnishing of facilities.
52. At the time, the records of the ICTY were housed in three buildings in The Hague.
53. In 2010 the IRMCT was established, and for several years it operated in parallel with two Tribunals (ICTY and ICTR) as it prepared to take over residual tasks. The ICTY was officially closed on December 31, 2017. See https://www.icty.org/en/press/icty-marks- official-closure-with-moving-ceremony-in-the-hague. The ICTR closed in 2015.
54. https://www.irmct.org/sites/default/files/documents/081219_unscpresident_statement_en.pdf December 2008. In total 13 potential locations in Europe and Africa where the UN already had a strong presence were considered and in addition 8 non- tribunal UN offices and The Hague and Arusha were considered (https://www.irmct.org/sites/default/files/documents/090521_budget_report_en.pdf).
55. https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/en/sc/repertoire/2000-2003/00-03_5.pdf. The working group on International Criminal Tribunals, established in June 2000, was convened to deal with a specific issue pertaining to the Statute of the International Criminal Tribunal for the Former Yugoslavia and was subsequently mandated to deal with other (legal) issues pertaining to the tribunals.

56. https://www.irmct.org/sites/default/files/documents/081231_working-group_report_en.pdf Letter dated December 19, 2008 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council, December 31, 2008.
57. On June 27, 2024, the Security Council requested "the Secretary-General to present an updated report by 31 December 2025 on the administrative and budgetary aspects of the options for possible locations of the archives of the ICTR, the ICTY, and the Mechanism mindful of the importance of access to the archives in support of national investigative and prosecutorial processes, and the views of the relevant states in connection with the hosting of the archives" (UN Security Council, S/2024/505).
58. Report of the Secretary-General on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals, May 21, 2009 https://www.irmct.org/sites/default/files/documents/090521_budget_report_en.pdf The advisory committee on archives recommended separate housing for the archives of the two tribunals, with a location on the continent of the country in question. The housing of the archives should be inextricably linked to the place where the residual functions were being carried out. It was considered important that as long as the archives contained confidential documents that could not yet be made public, the archives should not be transferred to any of the countries of the former Yugoslavia or Rwanda. Instead, documentation centers should be established in the countries affected. For the longer term, however, it was recommended to transfer the archives to the different areas of the former conflict. The ICTY considered this impossible because "the archives would need to be copied in their entirety for each of the countries of the former Yugoslavia," although it was not ruled out that the ICTY archive might in future be located in one of the former countries.
59. Based on Navanethem Pillay, "Core Issues: Establishing Archives and the Residual Mechanism" in Richard H. Steinberg (eds.), *Assessing the Legacy of the ICTY* (Brill, 2011) 51-57: If we look at the two extreme views, we see on the one hand stakeholders who argue that international interests outweigh national claims, as neutral control is necessary to ensure the integrity of ICTY material. This requires that archives should be placed outside the region of conflict. Independent oversight is seen as the best way to prevent misuse of documents. However, another perspective sees the ICTY records primarily as testimonies of national events and considers it an important challenge that these records will be available to all citizens of the countries involved. They believe that the countries of the former Yugoslavia need to feel ownership of the legal documents to come to terms with their past. Therefore, they advocate for the archives to be located within the region rather than at an international location.

60. Catherine Marchi-Uhel, "The Availability and Accessibility of ICTY Archives via Information Centers" in Richard H. Steinberg (eds.), *Assessing the Legacy of the ICTY* (Brill, 2011) 75-78.
61. Pillay, "Core Issues," 51-57.
62. Marchi-Uhel, ICTY Archives via Information Centers.
63. https://icmksj-sarajevo.ba/en/home/ According to the Memorandum between the International Criminal Tribunal for the former Yugoslavia and the City of Sarajevo, "the mandate of the Centre is to provide the public with up-to-date direct and secure electronic access to all publicly available ICTY records and archival material contained in the ICTY online database, as well as to perform the tasks with the aim to inform and educate the public on the war crimes issues, contributing to the process of transitional justice and strengthening the rule of law in Bosnia and Herzegovina and the region by establishing a strong outreach components: dealing with the past, providing the support to legal professionals and civil society groups handling war crimes cases before domestic courts in Bosnia and Herzegovina and the exhibition component—showcasing the work and activities of the ICTY in delivering judgments."
64. https://www.law.ox.ac.uk/sites/default/files/migrated/atrocitys_archives_guidance_note-23july18.pdf Atrocity's Archives: The Role of Archives in Transitional Justice. Workshop Summary & Conclusion.
65. Belinda Battley, "Archives as places, places as archives: doors to privilege, places of connection or haunted sarcophagi of crumbling skeletons?" in *Archival Science* (2019) 19:1–26. https://doi.org/10.1007/s10502-019-09300-4
66. Raad voor Cultuur, *Het tekort van het teveel. Over de Rijksverantwoordelijkheid voor cultureel erfgoed, deel 2* (Den Haag 2005), 23. The Council of Culture used the Leerdam Glass Museum as an example. The museum does not only derive its value from the unique glass collection it holds, but also from being located where the glass was produced and in combination with the company archive in which everything about processes, designs, and business operations is recorded.
67. Deutscher Bundestag, "Drucksache 18/8050 Bericht der Expertenkommission zur Zukunft der Behörde des Bundesbeauftragten für die Unterlagen des Staatssicherheitsdienstes der ehemaligen DDR" (BStU), April 5, 2016. https://dserver.bundestag.de/btd/18/080/1808050.pdf.
68. This was emphasized by several interviewees in separate interviews. It was also highlighted by nearly all respondents who responded to the request from the Outreach Department of the Residual Mechanism to express their views on how the memory of the Tribunal could best be preserved.
69. Interviews and Consultations on the memorialization of the former ICTY building by the Outreach Department of the Residual Mechanism.
70. Interview with S., May 14, 2024.
71. Interview with M,. April 18, 2024.

Chapter Five: From Built Heritage to Memory Mapping: Site Analysis, Documentation, and Valuation

Abstract: This chapter examines the constitution of memorial value in relation to the International Criminal Tribunal for the former Yugoslavia (ICTY) building. It commences with an analytical framework for conceptualizing war heritage preservation as memory space, briefly situating the discussion within contemporary theoretical discourse. Subsequently, the analysis addresses comparative approaches to judicial memory sites, specifically examining how both Nuremberg and Sarajevo have established commemorative connections with the ICTY and developed strategies for preserving its institutional memory. The investigation extends to an examination of Bosnian-Dutch community agencies in the Netherlands, particularly focusing on their commemorative practices and activities surrounding the creation of a national memorial for Srebrenica in The Hague. The chapter concludes with a spatial analysis of memorial value as it pertains to the ICTY operation within the Churchillplein 1 building, mapping the multiple dimensions of the memorial value embedded within this unique site of transitional justice.

Authentic Spaces and the Memorial Value

As laid out in the introductory chapter of this report, the current approach to the evaluation of architectural monuments calls for scrutiny—a common argument set forth by contemporary scholars and practitioners specialized in the identification, evaluation, and preservation of twentieth-century built heritage.[1] More than two decades ago, French historian Françoise Choay discussed the "invention of the historic monument" and argued that a monument in its broadest sense embodies a defense against the traumas

Laarse, Rob van der, Charles Jeurgens, Sabina Tanović. *The Former "Yugoslavia Tribunal" as Monument of Justice: History, Heritage and Memory of the ICTY and IRMCT in the City of Peace and Justice*. Amsterdam: Amsterdam University Press, 2025.
DOI: 10.5117/9789048572014_CH05

of existence, and that the affective nature of a monument is an "antidote to entropy, to the dissolving action of time on all things natural and artificial."[2] Before her, the Viennese art historian Aloïs Riegl described the notion of a monument in its oldest sense as "a human creation, erected for the specific purpose of keeping single human deeds or events (or a combination thereof) alive in the minds of future generations."[3] He famously contended that the perception that future generations would have of a monument depended on the prevailing context, norms, and values, or the *Kunstwollen* of that epoch. Discussing the importance of the ICTY, Otto Spijkers observes its heritage as a "legal monument" but stresses its dependence on the authentic place.[4] This resonates with what is set forth in the Venice Charter, especially in the 1964 essay by Friedrich Mielke aiming to define a historic monument as a scientific concept, in which he argued that the concept of a monument is inseparably connected with its place of origin: monument = original + time + quality + locus.[5] In his conclusion, Mielke argues that "the documentary value of a monument is not only fixed by the material used for creating it, but it is at the same time a symbol for the trends determining the epoch of its existence" and in conclusion completes his formula: monument = original + time + quality + locus + symbol.[6]

Although it shares these qualities with a traditional symbolic monument or a cultural heritage monument, a memorial has relatively recently been recognized as a specific typology that evolved with our growing understanding of the human sciences, especially psychology regarding bereavement processes. It is not uncommon to hear that contemporary memorial spaces act as today's churches in the function of collective remembrance—secular spaces of devotion where people come to experience profound emotions and contemplate.[7] Peter Carrier stressed that the essential significance of commemorative projects in general lies in their "non-prescriptive heuristic stimuli that enable individuals to encounter and understand both the past and their relation to the past via representations of it."[8]

Memorials are commonly seen as transitional objects and holding spaces that are expected to create a safe environment for individuals who need to make sense of loss and deal with conflicting emotions. A widely adopted hypothesis in what is recognized as "lay trauma theory" is that if not confronted and recognized, the denial of trauma and traumatic memories obstructs the recovery process and can lead to social death as is the case with concentration camp survivors in northern Bosnia during the early 1990s who, denied their right to commemorate sites of atrocities, found themselves in the ambivalence of the "narrative void."[9] In the light of this, memorial architecture serves the purpose of collecting existing narratives related to

Figure 5.1. Detainees in the Manjača Camp, near Banja Luka, Bosnia and Herzegovina, 1992. The picture has been used as evidence in the trials. Photo ICTY.

living memories. It is also a sign of recognition of people's suffering in the escape from annihilation. The creation of memorial architecture invigorates both public and private commemorations.[10] In this way a sense of continuity is created, and feelings of belonging are strengthened by offering a space for people to channel their emotions and reaffirm self-identity, reassured that their experience is "important enough to merit exclusive prominence in a public space."[11]

Physical memorial spaces are catalysts for the instigation of the experience as a precondition for understanding a specific past and memory thereof. This is particularly true for authentic places of remembrance. In her exploration of German documentation centers on historic National Socialist sites, Rumiko Handa asserts:

> "The authentic location has the potential of making the content of the exhibit more immediate to the visitor, which becomes both an opportunity and a challenge to the architects and designers to generate a design that bridges the difficult past and the present that critically examines that past."[12]

The example of the Dokumentationszentrum Reichsparteitagsgelände in Nuremberg with its unfinished 1930s Congress Hall testifies to the importance of authentic architecture in communicating complex histories and,

in this particular case, the mechanism and implications of Nazi ideology. The permanent exhibition nestled inside the north wing of the Congress Hall thoroughly represents 1930s and 1940s Germany and makes a strong connection with the Nuremberg Trials, rendering the link between events and places tangible. The exhibition (now under reconstruction for updates and expansion due to the tripling of the number of visitors)[13] ends with one historical photograph of the architectural scale model depicting the hall as it was intended to be completed, juxtaposed with the existing vast space of the unfinished Nazi project, whereby a visitor "gains a hypothetical sense of actually being in the completed assembly hall."[14]

Material layers are of particular importance as evidence of historical events. The existence of mass graves and concentration camps was conclusively established during the ICTY trials through forensic evidence and photographic documentation (see figures 5.1 and 5.2). Throughout these proceedings, the destruction of cultural heritage was thoroughly investigated, reinforcing the principle that cultural and religious destruction are intrinsically interconnected. The demolition of over 600 mosques in Bosnia and Herzegovina, in particular, strengthened the conceptual frameworks of "cultural genocide" and "urbicide."[15]

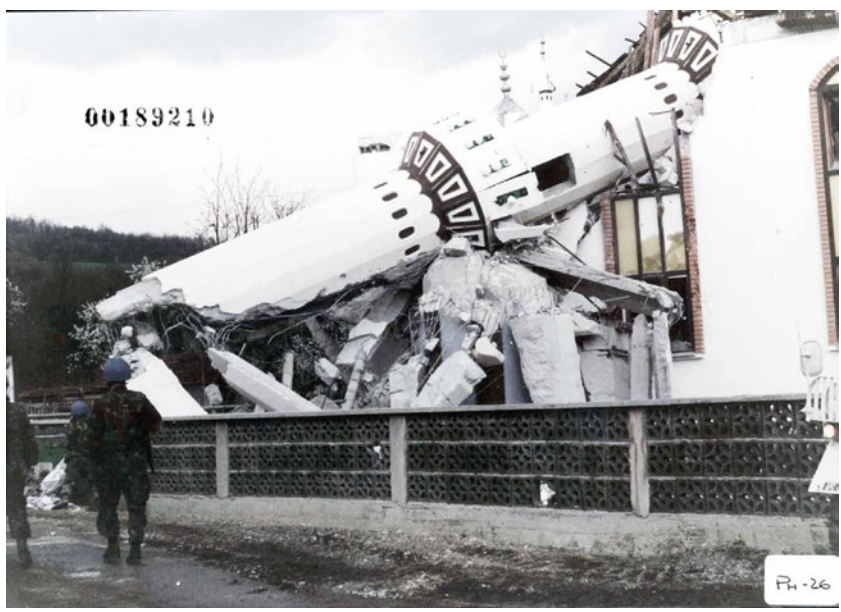


Figure 5.2. Bombed mosque by Bosnian Croatian forces in April 1993, Ahmići, Central Bosnia and Herzegovina. Photo ICTY.

The sense of place that authentic sites carry thus has the potential to establish a relationship between past and present. In line with the logic of the International Coalition of Sites of Conscience, a worldwide network of historical sites and institutions founded in 1999 and dedicated to preserving traumatic and difficult pasts, by acknowledging historical facts as indisputable, physical sites aim to "leave the truths of human rights violations unquestioned, but offer the future of their countries as an open debate, inviting visitors to consider a variety of ways in which they can participate in shaping it."[16] Translated into the language of material memorial value, this implies acknowledging all the tangible layers of the past as facts worth preserving. To understand the meaning of the memorial value, it is necessary to distinguish between the character of a place, as determined solely by its architectural language, and the sense of place as a layered socio-cultural relationship between people and the place. The comprehensive integration of these material and immaterial aspects constitutes the memorial value of a place.

Importantly, while material sites evolve continuously and layers of change are constantly accumulating, it is the most impactful periods of the past that determine the memorial value. For any mindful intervention, preservation, and commemoration strategies, embedded in the particularities of a local socio-political and cultural context, memorial value sets the prerequisite for future use. Next to this, memorial value is also modeled by global influences and the urgency imposed by ongoing social and climate change. In the context of global crisis, it is important to assert that social and ecological sustainability should also be considered in projects dealing with the material memorial value of collective remembrance. Removing collective heritage of high memorial value is highly problematic and carries different kinds of risks, depending on a given context. This chapter will delve into case studies that are relevant to the evaluation of the memorial value of the Churchillplein 1 building, with the aim of achieving a preliminary mapping of zones and spaces of high memorial value that are currently lacking in the existing architectural evaluation.

Memorium Nuremberg Trials

Memorium Nuremberg Trials, housed in the Nuremberg Palace of Justice, is a unique example that shares direct links with the ICTY. Indeed, to mark the closure of the ICTY in 2017, the Nuremberg Academy organized a seminar "Legacy of the International Criminal Tribunal for the former Yugoslavia and the Nuremberg Principles" that took place in the historic Courtroom 600 of the Nuremberg Palace of Justice, with the aim of ensuring "that

the Tribunal's contribution to accountability for war crimes endures long after its doors have closed, in particular by enabling others to build on its work and achievements."[17] With its historic Courtroom 600 where leaders of the Nazi regime were tried before the International Military Tribunal between November 20, 1945 and October 1, 1946, the Palace of Justice is today "Memorium Nuremberg Trials," a memorial museum and information and documentation center dealing with German difficult heritage. Zooming in on Nuremberg, Sharon Macdonald explores the notion of difficult heritage as "a past that is recognized as meaningful in the present but that is also contested and awkward for public reconciliation with a positive, self-affirming contemporary identity."[18] While Macdonald specifically refers to the Nazi Party Rally Grounds Documentation Center, Memorium Nuremberg Trials was later added as a new institution of the Nuremberg Municipal Museums, and is managed by the Dokumentationszentrum Reichsparteitagsgelände, while the building itself is owned by the state.

The trials were held in Nuremberg mainly for logistical reasons (e.g. large courtroom space), but there were also symbolic connotations, given that Nuremberg had been seen as the capital of the Nazi party. The Nuremberg Trials precipitated a flood of atrocity images in the post-war public media, thereby ensuring that the National Socialist legacy reached a wider public. The Nuremberg Trials were the first international trials based on the military tribunal model, and they thus had a significant influence on the development of international criminal law.[19] The so-called "Nuremberg Promise," to punish state crimes, received real impetus only with the establishment of the ICTY by order of UN Security Council Resolution 827. Like the Nuremberg International Military Tribunal set up in 1945, the ICTY was an *ad hoc* tribunal established to indict war crimes, genocide, crimes against humanity, and, for the first time, crimes of torture and rape. For its 50th anniversary in 1995, the Nuremberg Trials were in the spotlight in large part because of the ICTY and the Srebrenica genocide that happened that same year.[20] Ten years later, for the 60th anniversary of the start of the trials, it was clear that the provisional touring arrangements were insufficient to accommodate continually increasing visitor numbers (recent visitor numbers have risen to 136,000 visitors a year). The managerial team stresses the growing need for more space to accommodate the infrastructure needed for visitors and staff, since the initial arrangement to use only essential parts of the Nuremberg Palace of Justice (i.e. the courtroom and the attic where the exhibition is housed) has proved insufficient.[21]

In 2000, a year when a number of memorial activities were simultaneously taking place in Nuremberg, the first weekend tours of Courtroom 600

were organized for mostly American tourists. It was the Bavarian judiciary that, under pressure from different parties, allowed these tours, making a change of direction in the 1990s, and a radical one given that in the 1960s, they refused any visits to the courtroom outright. Even though Memorium was officially opened in 2010, the courtroom continued to be in use until 2020. The costs of the project reached almost EUR 5 million, and it took three years to complete, from establishing a commission to plan the budget in July 2007 and another to plan construction in May 2008, to a symbolic ground-breaking ceremony in March 2009 and completion in 2010.[22]

The exhibition currently comprises two main spaces: Courtroom 600 and the exhibition above it. In Courtroom 600, at five regular times each day, the courtroom curtains are closed and a translucent screen displays a question in German and English: "Is there still a 'Nuremberg Idea?'" An award-winning 15-minute media installation entitled "Zeitreise Saal 600 | Courtroom 600: Time Travel"—opening with scenes from the Siege of Sarajevo, the first years of the ICTY, and the Srebrenica commemoration—grips the public with its tailor-made design based on the convergence of the authentic space and the archival audio-visual material (Figure 5.3).[23]

The combination of the digital reconstruction of the courtroom and the archival documents allows for an effective representation of the evolution of the space through history. Of course, it is perfectly possible to communicate this via different modes of engagement that form part of strategies aimed at preserving and re-experiencing history at authentic sites of historical events, such as the "Courtroom 600 Project" VR experience. Yet scholars stress the importance of physical space. Visitors experience, or rather re-experience, the historical power and spectacle of international law, which may affect their idea of what international law is or could be today. But visiting, seeing, and touching the authentic place inevitably alters such an abstract fantasy, which now becomes something concrete and tangible. The named concept of "international law" is transformed by its re-experience.[24]

While there are profound conundrums to be addressed in regard to the re-enactment of historical experiences through immersive virtual realities, the endless possibilities created by the combination of VR and the material authenticity of the historical space open up a way toward innovative solutions for bringing international law closer to different categories of the public. As the mixed-media video installation in the current curatorial setting of Courtroom 600 demonstrates, the interactive encounter is most powerfully facilitated in the authentic place, and thus beneficial to its memorial value. Together with the exhibition, it manages to convey this globally important history as a spatial manifestation of justice. Additionally, its growing focus on

the issue of human rights in the contemporary context and its approaches to enabling heightened visitor engagement during interaction with its tangible and intangible layers, render Memorium Nuremberg Trials an incisive site.

The courtroom itself underwent a number of modifications both before and after the trials. Some of the preparatory changes implemented by the US forces included the installation of a novel system that allowed for simultaneous interpretation, the addition of interior apertures allowing on-site radio reporting, and the wood paneling of the interior walls to enable an enlarged audience space. After the building was returned to the German authorities in 1961, work took place to restore many modifications to their pre-trial state and install new furniture, involving extensive construction. The courtroom continued to be used by the Bavarian judicial system when organized tours began in 2000. Those tours continued until 2008, when structural work started with a view to establishing Memorium.

The present-day layout differs from the Anglo-Saxon trial chamber only in that a large crucifix hangs above the judges' bench. In March 2020, the Bavarian judiciary decided to cease using Courtroom 600 in order to allot the entire space to the memorial function. It was argued in the wake of this that the courtroom should be restored to its material state during the Nuremberg trials. However, two strong arguments meant that this was not pursued further: 1) all historical layers after the trials are representative of the evolution of the space, and are therefore valuable, and 2) not enough authentic furniture survives, so the only way to "go back" to the 1940s and 1950s was to install reproductions, which was seen as tending towards "Disneyfication."[25] Hence, and in spite of general regret that the authentic courtroom had not been preserved in the 1960s, the reconstruction proposal was rejected, and instead the building's evolution was embraced as its core memorial value, communicated via representations on site and online. Historical images of the courtroom hang in the hallway outside it, and a digital panorama (developed during the Covid-19 pandemic) offers an online experience of the existing space with historical images and explanations about key features of Courtroom 600 (Figures 5.4, 5.5, and 5.6).[26]

The permanent exhibition on the floor above provides insights on the Nazi defendants and their crimes, the Subsequent Nuremberg Trials of 1946-49, and the impact of the Nuremberg Trials down to the present day.[27] The exhibition, organized across 750 square meters, nestles in the attic under the original slanted roofs, and is structured into three main sections: 1) The Major War Criminals Trial in Nuremberg (1945/46), 2) The Subsequent Trials in Nuremberg (1946-1949), and 3) From Nuremberg to The Hague. The last section has been developed in partnership with the ICTY, and features

themes titled "International Criminal Courts of the Present Day," "Armed Conflicts Since 1945," "Justice Matters," and a film with contemporary witness accounts. The exhibition spaces bring these themes together in a unifying design by Büro Müller-Rieger from Munich, inspired by a historical image depicting court secretaries amongst a pile of documentation paper, symbolizing the work towards justice and change. So the visitor walks between precisely choreographed exhibition panels presenting gigantic, angled paper sheets on which documents and archival images are displayed along with mixed-media representations, including several authentic artifacts, such as benches. The focal point of the exhibition space is dedicated to the key trials, and is designated by a schematic layout of Courtroom 600 marked out on the floor. Accompanying this are exhibition materials focused on different stakeholders in the trials: prosecutors, defendants, witnesses, interpreters, and judges. Thanks to the meticulous preservation of the archive materials and sound recordings that documented the trial, the exhibition gives a detailed insight into the trials' context and the proceedings. Audio guides and media terminals in English and German reinforce the exhibited documentation with original sound sources (Figures 5.7, 5.8, 5.9, and 5.10).

At first, while the courtroom was still in use, window openings that form part of the exhibition still allowed a view into it, unless the judge or any party to the ongoing trial objected. A 1:50 scale model of the courtroom is placed in front of one of these windows to give the sense of how the courtroom was set up during the trials. Here, visitors can see Dan Kiley's innovative design for the courtroom—deemed a "rare and important instance when physical architecture structures a trial both metaphorically and non- metaphorically"[28] —and compare it to the current state (Figure 5.11). Towards the end of the exhibition, visitors can look outside to see the prison where the Nazi perpetrators were held during the trials (one existing wing of the historic prison building, albeit not in use, is part of a still functioning contemporary prison, and hence inaccessible).

To make the exhibition more engaging, interactive digital tools have been developed, and conceptual proposals encouraged, to imagine the physical development of the Memorium. This included a 2022 international design competition which invited architects to develop architectural extensions in front of the Palace of Justice. The winning design was mostly underground, featuring large exhibition and educational spaces, with a longitudinal one-story visitor center on the square above.[29] At present, a small gallery space "Cube 600," stands on this spot, and it is used by the Memorium for hosting temporary exhibitions related to topics of human rights, mechanisms of terror, and themes directly related to Nuremberg trials.

Figure 5.3. "Zeitreise Saal 600 | Courtroom 600: Time Travel: video installation displayed on a large translucent screen in the Courtroom 600 brings the past into the authentic space, Memorium Nuremberg Trials. Photo Sabina Tanović.

Figure 5.4. Photographs of the original 1940s design by Dan Kiley (left) and the 1960s reconstruction which caused the erasure of Kiley's unique design (right) positioned in the entrance lobby to the Courtroom 600, Memorium Nuremberg Trials. Photo Sabina Tanović.

Figure 5.5. Digital panorama of the Courtroom 600 allowing for a detailed inspection of the entire space, via a link to the virtual tour: https://museen.nuernberg.de/panorama/saal-600/. Photo Museen Nurenberg.

Figure 5.6. Detail of information embedded in the digital panorama of the Courtroom 600, https://museen.nuernberg.de/panorama/saal-600/. Photo Museen Nurenberg.

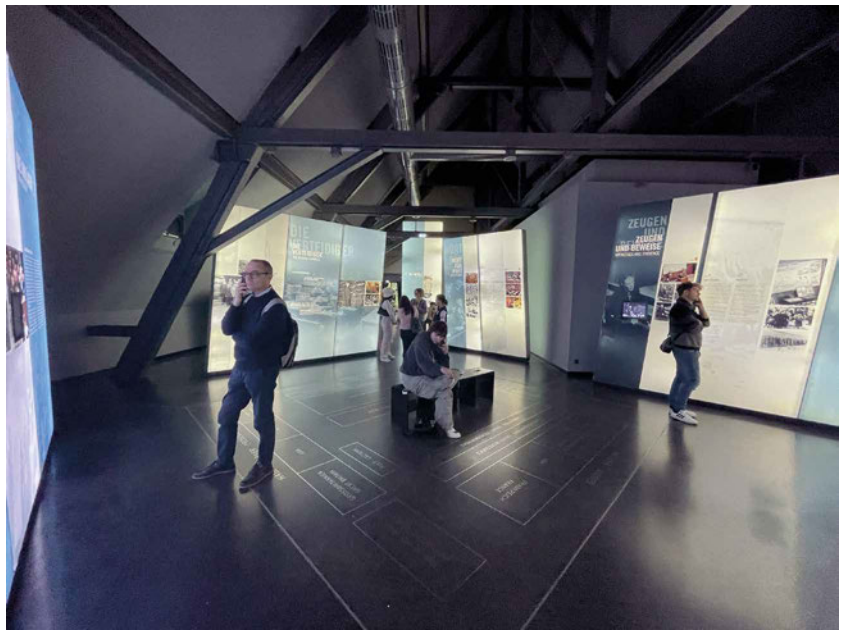


Figure 5.7. The schematic layout of the Courtroom 600 is displayed on the floor of the permanent exhibition and surrounded with information panels, Memorium Nuremberg Trials. Photo Sabina Tanović.

Figure 5.8. Authentic artifacts and furnishings used in the Nuremberg trials are exhibited in the permanent exhibition: "transport box for evidence documents," Memorium Nuremberg Trials. Photo Sabina Tanović.

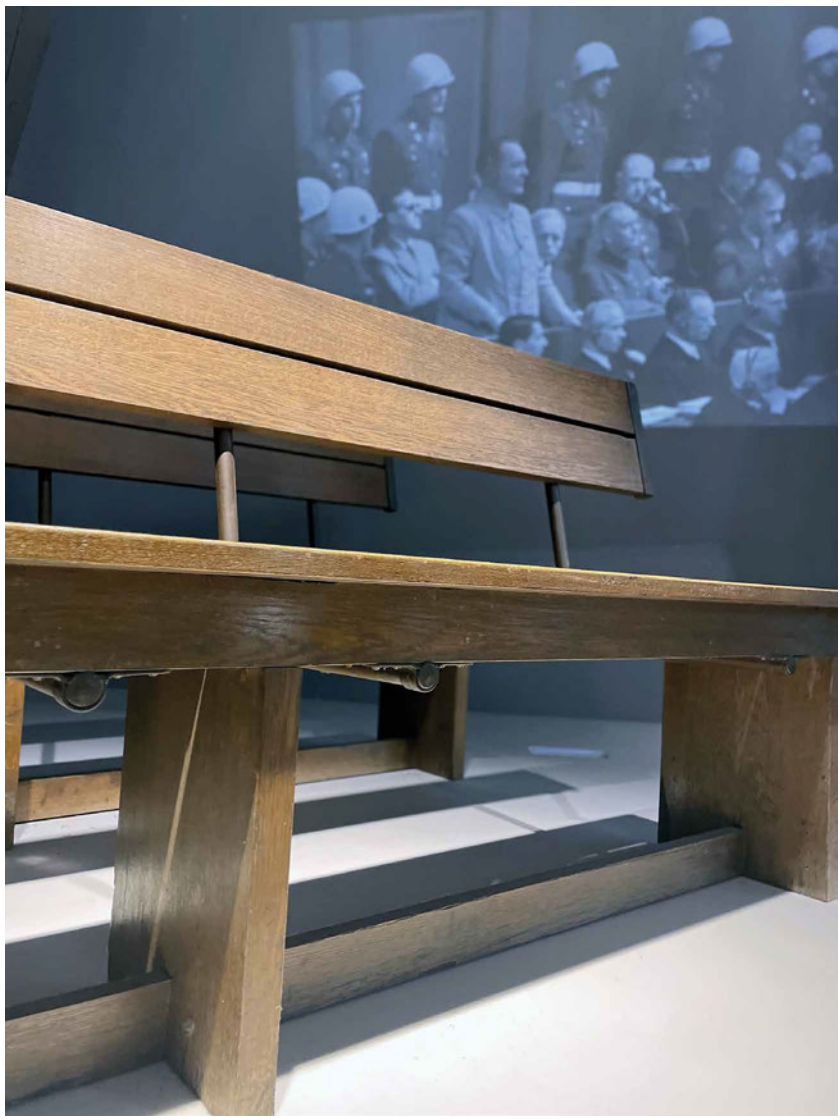


Figure 5.9. Authentic artifacts and furnishings used in the Nuremberg trials are exhibited in the permanent exhibition: the original defendants' bench, Memorium Nuremberg Trials. Photo Sabina Tanović.

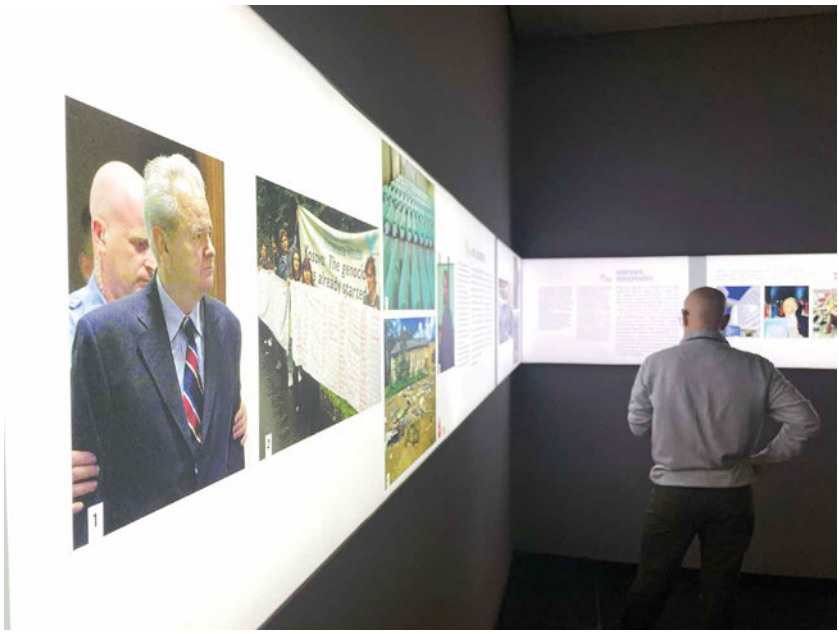


Figure 5.1o. The permanent exhibition is designed as an engaging space corroborated with multimedia audio-visual archive material – here one part of the exhibition dedicated explicitly to the ICTY, Memorium Nuremberg Trials. Photo Sabina Tanović.

Figure 5.11. Visitors observe an architectural model of the Courtroom 600 placed next to the windows that allow a view down into the courtroom, Memorium Nuremberg Trials. Photo Sabina Tanović.

ICTY Information Center in Sarajevo

The Sarajevo Information Center on the ICTY, an internal organizational unit within the City of Sarajevo and administered by the Mayor, was officially opened and started to operate in the City Hall in May 2018. It was a result of cooperation founded on a 2016 Memorandum of Understanding signed between the IRMCT and the City of Sarajevo with a goal to:

"Provide the public with up-to-date, direct, and secure electronic access to all publicly available ICTY records and archival material contained in the ICTY's online databases, but also to inform the public on the war crimes issues, to contribute to the process of transitional justice and strengthening the rule of law in BiH [Bosnia and Herzegovina] and the region by establishing strong outreach components including: the component of transitional justice, contributing to the processes of transitional justice and dealing with the past by organizing various informative and educational public events; the component of support to legal professionals and civil society capacity building activities targeting legal professionals and civil societies groups handling war crimes before domestic courts in BiH; and the exhibition component showcasing the work of the ICTY and courts in BiH in adjudicating war crimes cases."[30]

A visual representation of the ICTY was deemed crucial in representing this past to wide audiences. The building of the City Hall or "Vijećnica" was formerly a public library, but it was destroyed by incendiary shells in 1992 and is today a recognized symbol of the *urbicide* committed by Serb extremist forces that besieged the city between March 1992 and February 1996 (some months after the Dayton Agreement was signed in 1995).[31] After a long and complicated reconstruction process, the building reemerged with no visible signs of the destruction and it was ceremonially opened in 2014. The complete reconstruction is typical in the treatment of war heritage in Sarajevo, where the authentic materiality of architecture designated as war heritage is often ignored or overlooked for its forensics value, leading to material and spatial modifications. Regrettably, this leads to the inevitable loss of war heritage or, as is the case with Vijećnica, war heritage is repaired in a way that attenuates its memorial value.[32] The opening of the Information Center (and the basement exhibition where visitors can see photographs from the Siege of Sarajevo and a portion of a burned construction wall), bolster the building's memorial value, which has been diminished as the idea of preserving substantial traces of destruction as a forensic part of

the building's evolution has been disregarded. Despite this, the intangible memorial value still remains thanks to the living memory and experiences of Sarajevo citizens who survived the siege.

The Information Center housed inside Vijećnica occupies 1,000 square meters and includes a multifunctional hall, a library with a reading room, the exhibition, and working premises. Since its inauguration in 2018, the center has established a number of collaborations with academic institutions, NGOs dealing with war heritage, and other centers, including the Srebrenica Genocide Memorial Centre.[33] The Information Center is gaining prominence as a presence in Sarajevo's public realm, as increasing tourist numbers demonstrate. Local audiences, however, mostly visit during commemorative or other events such as April 5th—Sarajevo Siege Day. A strong synchronous momentum connects Vijećnica with the ICTY, as seen, for instance, in the 2021 livestream of the verdict for Ratko Mladić in Vijećnica's main hall.

The exhibition *Showcasing the work and Contribution of the International Criminal Tribunal for the former Yugoslavia* (*ICTY*) is situated in the right wing of Vijećnica on the ground floor. It occupies three separate but connected rooms and an additional hall. Importantly, it also houses the original ICTY Trial Chamber 2, which was transported and installed in Vijećnica in 2018. The exhibition begins in the lobby, adorned with a large photograph of the ICTY building, a recognizable image from numerous broadcast reportages informing about court proceedings over the years. There are also photographs of the UN Security Council meeting at which the Tribunal was established and of UN SC Resolution 827 establishing the Tribunal. Photographs are accompanied with information panels summarizing the ICTY timeline and key milestones. The lobby serves as a transitional space from the impressive and light-filled central hall of Vijećnica (which visitors enter first) toward the contrasting realm of the exhibition, which is densely packed with information and graphic content (Figure 5.12).

The exhibition showcases the work and contribution of the Tribunal by representing 90 final judgments of convictions sorted by country, then region and city within the country. This section is also topically structured to highlight achievements of the ICTY.[34] All information accompanying the exhibits is extracted from the ICTY database. The representational methodology of the exhibition relies on infographics that include authentic case numbers, indictments and charges, judgments, sentences, trial statistics, and information about the country where the convicted individual served or is serving their sentence. This central information is accompanied by a selection of photographs, excerpts from testimonies, interview records, and other exhibits from the ICTY database (Figure 5.13).

Figure 5.12. A large photograph of Churchillplein 1, accompanied by a textual explanation about the ICTY in The Hague and its significance, adorns the entrance lobby of the Information Center in Sarajevo. Photo Sabina Tanović.

Figure 5.13. In the main corridor of the Information Center Sarajevo, a display showcases 90 individuals who were convicted. Photo Sabina Tanović.

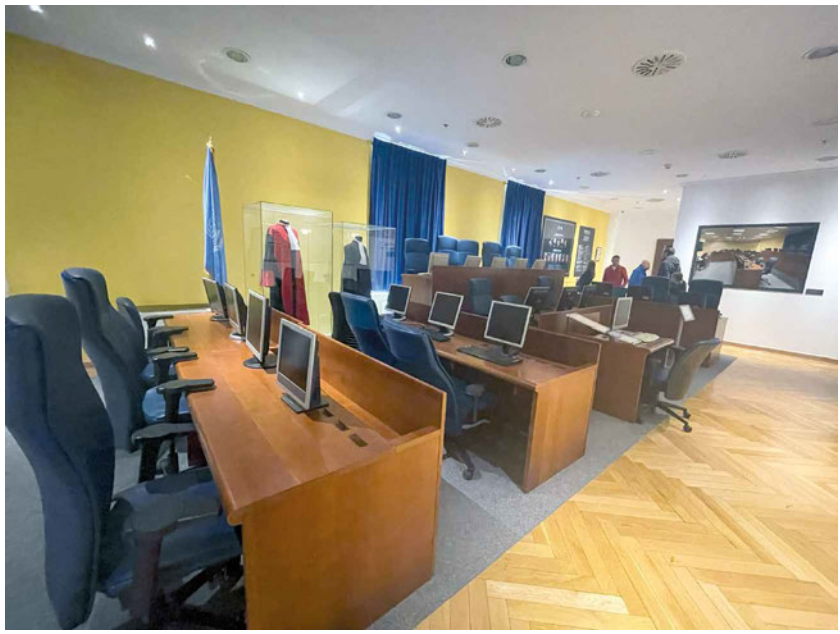


Figure 5.14. The Information Center Sarajevo presents an exhibition of authentic furniture and artifacts from Courtroom No. 2 of the ICTY. Photo Sabina Tanović.

Figure 5.15. Exhibition of authentic furniture and artifacts from Courtroom No. 2 of the ICTY, featuring infographics that explain key milestones of the trial process, in the Information Center Sarajevo. Photo Sabina Tanović.

After the first part of the exhibition, visitors enter space allotted to Trial Chamber 2, containing the original furniture, judges' bench, curtain, and the UN flag that adorned the courtroom in The Hague. The installation of the courtroom's furnishings and fittings follows the original in terms of where all stakeholders were positioned during proceedings taking place in the courtroom. Photographs of the original courtroom and infographics explaining its layout adorn the walls, offering direct reference to its original existence. Infographics also illustrate a timeline with important dates in the Tribunal's history from its establishment on May 25, 1993 until its closure on December 31, 2017. Part of this room is given over to named photographs of Tribunal Presidents and Chief Prosecutors. However, the original area of Trial Chamber 2 in the ICTY building was greater, so this exhibit is rather cramped, being compressed into the available parameters of the room. Two judicial robes—black for defense counsel and red that was worn by judge Fausto Pocar and personally donated by him to the Information Center—are exhibited under glass in the far corner of the room (Figures 5.14 and 5.15).

Benjamina Karić, at the time of this research mayor of Sarajevo, sees the importance of the Information Center as a place that will reinforce the image of Sarajevo as a city of peace by educating, reminding, and inspiring young generations. She stresses that the center's role in providing a physical space as an incentive for accessing digital archive material of the ICTY proves invaluable in both communicating and preserving the past. At the same time, the importance of the ICTY building and its material archives in the Hague is underlined time and again.[35]

Srebrenica and The Hague

Annual public commemorations of the Srebrenica genocide in The Hague started in 1996, and related discussion about creating a national monument or memorial to Srebrenica in the Netherlands involved various stakeholders at different moments in time.[36] Even though the activism of the Bosnian community and specifically survivors of Srebrenica and others directly affected by the ethnic cleansing in Bosnia and Herzegovina has been continuous and prominent, various reasons and influences over the years mean that no monument or memorial has yet materialized. While some argue that awareness of Srebrenica in Dutch society has increased over the years, the Bosnian community and many who advocate for Srebrenica as a significant chapter in Dutch history contend that official, state-sponsored Dutch memorialization is inadequate in addressing the issue and downplays

the collective responsibility of the Netherlands.[37] More recent activism of the Bosnian community in regard to embedding Srebrenica as a relevant part of Dutch history attests to this hypothesis, possibly due to the intergenerational transmission of memory and younger generations having significant agency.[38] Research shows that Srebrenica today "fulfills a double function as an imperative and as a symbol for larger problems or injustices."[39]

The most prominent current initiative is that of the foundation NMSG'95, made up of a number of organizations including Dutchbat 3 and the Srebrenica survivors' organization. This has achieved some concrete progress, including a close collaboration with the Municipality of The Hague to analyze options for the placement of the future memorial in front of the ICTY building and an info-documentation center in the building itself. In 2024, NMSG'95 —together with the "Marš Mira" (Peace March) that takes place every year in the Hague— placed a wreath of white flowers in front of the Churchillplein 1 building to symbolize the absence of the national memorial on the site and in relation to the building itself (Figure 0.1 and cover picture). This act also served as a reminder that the 30th anniversary of the genocide was approaching, and that over the past three decades, this location has witnessed many protests and other events during the ICTY trials. In this way, a strong symbolic link was forged between the site, national responsibility and collective remembrance. The planned memorial and info-documentation center will further reinforce this memorial action by designating a place for public commemoration, mourning, and information. Like in many communities around the world,[40] physical sites show how people continue to grapple with the aftermath of the collective violence and historical trauma they experienced.

Nedžad Avdić, a protected witness of the ICTY and a survivor of the killing fields in Srebrenica, describes much of this experience, along with the importance of the trials in bringing the scale of the crimes to light and enabling some form of justice.[41]

For the Bosnian and Herzegovinian community in the Netherlands, no longer in their country of origin, historical experience of the collective trauma is directly linked to the ICTY trials and the physical location of the ICTY in The Hague. Activism surrounding the commemoration and preservation of ICTY heritage features prominently because it is embedded in the community as emblematic of justice and hope.[42] It is also recognized as a unique place of shared experience and the intergenerational transmission of memory.[43] In the lobby of the building, an exhibition of children's drawings—from a 2013 IRMCT outreach program involving primary and secondary schools in BiH—displays drawings depicting the ICTY courtroom, as well as the Churchillplein building and the fountain in front. This goes to show the profound impact of the imagery

from the location and how it was embedded into the memory of the people in the region, even from a very young age.[44] Any hypothetical reduction in the memorial value of the ICTY is seen as highly problematic and damaging to these precarious aspects of identity formation within the community.[45]

The NMSG'95 workgroup (now officially a foundation)[46] was formed in 2019, and in 2020 it already won public official recognition that the memorial would indeed be built in The Hague.[47] This was also supported by Carmel Agius, former director of the IRMCT. The focus of the initiative is on the process regarding the creation of the memorial space, which is envisioned as inclusive and transparent,[48] culminating in an open international design competition. The anticipated concept for the memorial space diverges from a traditional sculptural monument as a purely symbolic presence in the public space on Churchillplein. Instead, it includes an educational component and a substantial spatial and visual link to the Churchillplein 1 building in the form of a documentation center.[49] The concept highlights that the future memorial needs to be multilayered in offering space for contemplation while still being prominent and directly physically linked to the building itself.

More is thus in play here than simply following the common practice of setting up public art or monuments as autonomous spaces, related to the context only symbolically or visually. One example of this practice is the monumental artwork *Broken Chair*, in a prominent location in the Place des Nations opposite the United Nations building in Geneva. The work is a reminder to politicians and diplomats of the immense harm caused by landmines and cluster bombs.[50] Its effect is undeniably powerful in establishing a visual and semantic link with the UN building nearby, but in comparison with the genocide memorials to Srebrenica and Rwanda, standing rather hidden at the back of the square, there is an obvious and problematic lack of informational context. Therefore, to avoid competitive memorialization and preserve the sense of place of the ICTY, NMSG'95 is working toward a more nuanced memorial design that will meaningfully incorporate the importance of Srebrenica genocide within the complexity of the ICTY's work. During the 29th national commemoration in The Hague in 2024, Saskia Bruines, the city's Alderman for Finance, Culture, and Economic Development and Deputy Mayor made the following statement:

> The genocide of Srebrenica is our shared past. The genocide of Srebrenica is part of the history of this country, of this city. This is precisely why the Municipality of The Hague believes it is important to have a dignified monument to remember the victims of Srebrenica. Together with all

> organizations and groups involved, we are working to realize it. Hopefully it will be ready next year.[51]

The initiative's proposal is backed up by other examples that succeed in combining symbolic and educational aspects of authentic places of memory, as we have seen in Memorium in Nuremberg. Examples such as the Death Cell at Scheveningen Prison (Dodencel Scheveningse Gevangenis), are also valuable. In 2025, for the 30th commemoration of the Srebrenica genocide, NMSG'95 designed and installed a so-called "placeholder" on the site. The placeholder consists of three elements: a remembrance stone, 30 white stones embedded in the pavement—symbolizing the 30-year process—and a three-sided information board. One side of the info-board is dedicated to the historical, emotional, and educational significance of the ICTY building and the square in front of it. The marking and preserving of a valuable location with a temporary place-holder memorial until a permanent one is created is a procedure that only reaffirms the importance of the ICTY as valuable memorial heritage. Added to this is the growing interest among a wider audience in visiting the Churchillplein 1 building, manifested in numerous guided tours organized by the staff of the IRMCT.[52] Allowing and enabling visits in this way is standard practice in historical buildings with high memorial value that house important institutions, such as United Nations offices around the world.[53]

Memorial Value Mapping of Churchillplein 1

As these examples demonstrate, any representation of the past entails mediation of that past as an active process of selecting and creating a consensus about the preservation of relevant layers of history. In Nuremberg, the decision not to reconstruct Dan Kiley's courtroom created a strong basis for innovative ways to inform, educate, and reflect on the past. Visitors are becoming more and more interested in creative curated multimedia content that effectively communicates layers of the past crucial to the building's memorial value, which in turn necessitates the ongoing expansion of the exhibition space and supporting logistics. Moreover, the new exhibition in the Nazi Party Rally Grounds Documentation Center, set to open in 2025, will further reinforce its connection with the Nuremberg Trials and Memorium. Even though the files of the Nuremberg Trials are held in different archives across the world, Memorium with its Courtroom 600 is anchored in the collective consciousness as a place of historically momentous judicial proceedings. Likewise, Sarajevo's Information

Center contains no original documents from the ICTY trials, but the archive in the Churchillplein 1 building gives a much-needed sense of continuity, security and trust—a recognition shared with the Bosnian people and their communities in the Netherlands. Its memorial value is anchored in the space and location of the ICTY, both for those who participated in the trials or events held in front of the building, and for those who followed the trials remotely.

In light of this and other arguments reinforced by data set forth in the research on which this report is based, the memorial value of the Churchillplein 1 building is indisputably significant. The memorial value, as explained before, originates from the authenticity of the material evidence and place. As the examples above confirm, the more of this authenticity is preserved, the easier it is to come closer to the narrative one aims to memorialize. For example, the well-known Death Cell at Scheveningen Prison remains carefully preserved and great attention is given to even the smallest details, such as etchings in the walls, bookshelves and bed covers. Henceforth, mapping out the museological memorial value of Churchillplein 1 for the period between 1994 and 2017 in relation to the authenticity, historical context and integrity of this unique historical monument means the Committee taking into consideration two different but inextricably connected aspects: the architectural and spatial evaluation, and the socio-historical evaluation as manifest in the space of the building. In doing this, we work in line with critical heritage approaches where ascribed values of memory and identity take priority over intrinsic values of art and authenticity. In other words, the existing assessment of the building's architectural and cultural history and valuation, carried out in 2019-2021 (high, positive and indifferent monumental value),[54] valued the case study intrinsically according to material authenticity and the integrity of the original design. This Committee, by contrast, posits that the monumental value is not intrinsic but attribute, concerning as it does the symbolic value of the monumental appearance of the international court building.

Under the title "Waarden vanuit de gebruikshistorie" ("Values on the Basis of History of Use"), the existing architectural and cultural historical assessment and valuation of the building assigned "high monumental value" to the ICTY's use of the building because of the global presence of the trials in the media and their formative impact on global collective remembrance. In its spatial mapping, however, it assigns to some of the essential spaces a "positive monumental value" while warning that these spaces deserve consideration as relevant cultural historical presence in spite of their "lesser" architectural value.[55] The assessment concludes that, while infills from the 1990s have a negative impact on the high-quality 1950s architecture of

the building, traces of the Tribunal are of great significance and there "can be no denying that a part of European history took place within the walls of this building" and the "low quality does not diminish this high general cultural-historical value."[56]

This report integrates values as architecture (i.e. monumental values) and as cultural history, as illustrated in the diagram below. Hence, the overall memorial value of Churchillplein 1 presupposes its architectural monumental value as well as its legal monumental value defined by the use of the building during the ICTY operation, routes used by different stakeholders, high-profile trials and events, personal and collective memories and narratives, as illustrated here:

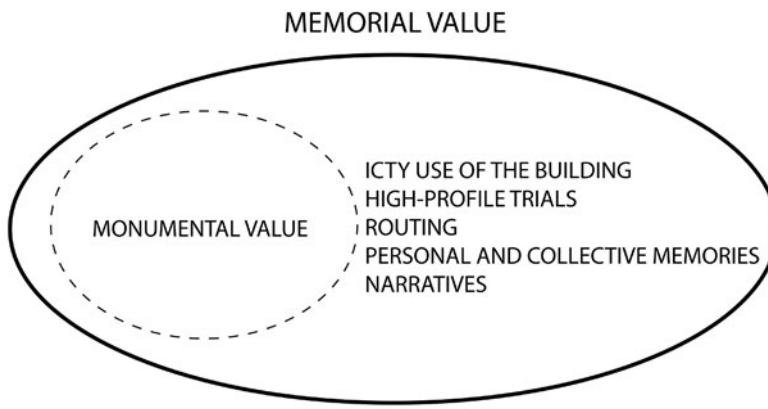


Figure 5.16. Memorial Value diagram. © Sabina Tanović.

In terms of mapping, this essentially means that a number of spaces to which "positive" and "indifferent" values are assigned in the architectural evaluation are now observed through the lens of memorial value. In accordance with a typical approach applied in heritage evaluations, our report also recognizes three levels of importance: high, positive and indifferent memorial value. Spaces designated as of "high memorial value" are deemed essential/relevant for conveying the past. This means that the totality of a space (i.e. disposition, furnishing, found equipment, and so forth) designated with high memorial value needs to be preserved as it is. Positive memorial value, within the remit of this research, implies the same, except that potential changes deemed necessary in the future can take place—this is dependent on future research and the specific perspective lens that will be adopted in the treatment of the building.

The approach adopted for evaluating the memorial value of Churchillplein 1 in this report is informed by the "Curating the Past" model developed by Peter van Mensch and Rob van der Laarse to address three angles of heritage theory and politics, focusing on site analysis and management, namely problematization, contextualization, and conceptualization (Figure 5.17).

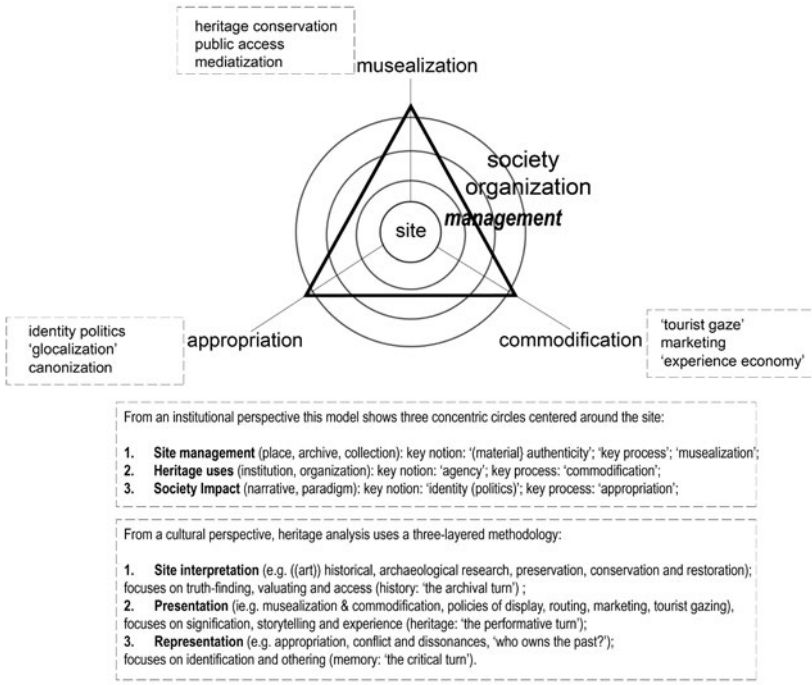


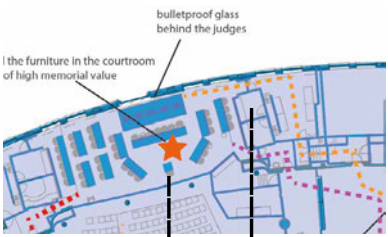
Figure 5.17. Curating the Past Model. © Museology Lab UvA/RWA.

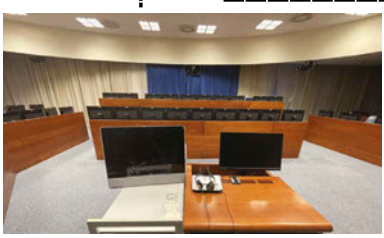
Considering the complexities involved in the curation of material heritage of the past, the Committee's analytical mapping of Churchillplein 1, at the given scope and timeframe, represents only the beginning in understanding the ICTY's embedded heritage in this monumental building. Mapped here are key spaces and spatial zones, some of which will require extensive and detailed research, given that field research, including interviews with relevant stakeholders such as IRMCT staff (some of whom are former ICTY staff), indicates a rich history behind these spaces (see example of Trial Chamber 1, Figure 5.18). Such follow-up research will likely result in more spaces designated as "high memorial value." The results of this Committee's research should therefore be seen as preliminary.

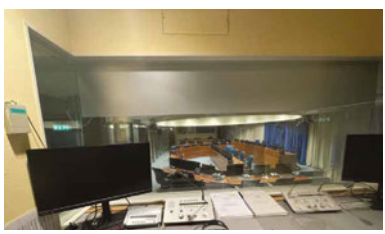
Courtroom 1 on the first floor was one of the central spaces of the ICTY. It is of high memorial value, crucial in preserving and communicating the history of the ICTY. Every segment of this entire space including flooring, wall finishings, furniture, communication and recording equipment are high value memorial artefacts.

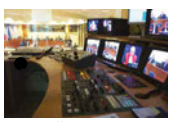
Any iteration, removal or restoration of these spaces without careful consideration will impede its memorial value and negatively influence its future museological potential.

All adjacent logistical spaces are equally relevant: translators' booths, judges antechamber, logistical corridors with supporting technological equipment (still in place), public gallery and numerous other material artefacts such as curtains and cameras.









Recording / broadcast booth during operation

Figure 5.18. Courtroom 1: Examples of high-profile events constituting high memorial value including all the artifacts that were used during the trials. Photos ICTY, composition: © Sabina Tanović.

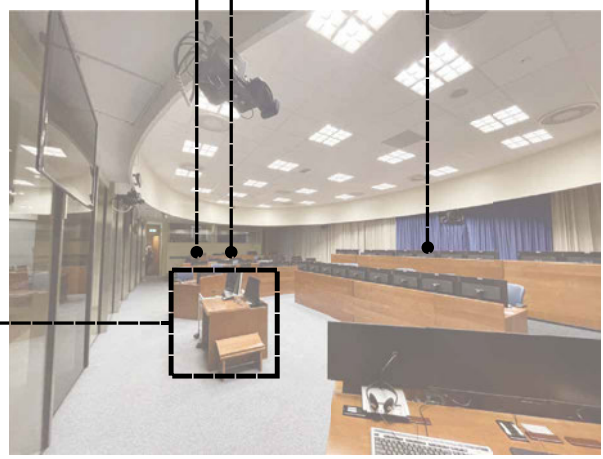
COURTROOM 1
Examples of high-profile events constituting high memorial value including all the artefacts that were used during the trials

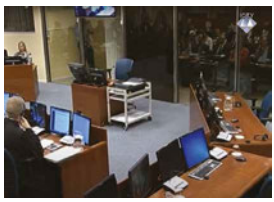
Ratko Mladić during one of the Trial sessions in June 2011

Ratko Mladić looking at the audience during the reading of the final Trial Judgment in November 2017

Judge Alphons Orie reading the final Trial Judgment for Ratko Mladić in November 2017

Slobodan Praljak drinks lethal poison as an act of rejecting the Court's rulling in November 2017





A view towards the visitors' gallery during the reading of the final Trial Judgment to Ratko Mladić in November 2017

Witness in a rape case, Grozdana Ćećez, with a scale model In front of her to show where what happened in the Čelebići prison camp near Konjic in Bosnia and Herzegovina. March 1997

Courtroom 1 during a swearing-in ceremony of Judges

ICTY Press Briefing Archive: https://www.icty.org/en/node/7243

Figure 5.18. Courtroom 1: Examples of high-profile events constituting high memorial value including all the artifacts that were used during the trials. Photos ICTY, composition: © Sabina Tanović.

A summary of the mapping:

– BASEMENT:
  The research shows that areas facilitating arrivals of the accused, holding cells, horizontal communications (i.e. corridors), vertical communications (i.e. elevators and stairs), and other spaces and artifacts (e.g. communications system) were essential to the functioning of the ICTY. Unlike the existing architectural evaluation, the present report recognizes designated spaces as of high memorial value. For example, the temporary holding cell positioned in the arrival corridor where the president of Serbia, Slobodan Milošević, was held during his trial is fully preserved (see Spatial evaluation: Basement, photographs -1.04 and -1.05). This is also the case with the rest of the holding cells in the basement and on the second floor of the Churchillplein 1 building—they are intact in terms of flooring, wall finishes, and other relevant details, such as communications and built-in furniture. The importance of these cells in the functioning of the ICTY, together with their well-preserved material state, makes them crucial to the overall memorial value of the building.
– GROUND LEVEL:
  Building perimeter and front space of the Churchillplein 1 building:
  Importantly, this report designates as of high memorial value the fencing, barriers, bulkheads and the security lock that were installed in the 1990s for the purpose of the Tribunal's security, because they were essential to the ICTY proceedings, defining the character and the public image of the building and the historical narrative, especially the façade of the building and the fencing along Eisenhowerlaan. This is in sharp contrast to the existing architectonic evaluation, which sees these elements as interfering with the building's monumental appearance and giving the building an "inaccessible, castle-like appearance."[57] The existing architectural evaluation also classifies the pond as indifferent because it involves an autonomous work that does not respond to Van der Steur's building and detracts from the original sculpture by Lidi van Mourik Broekman. The present report, by contrast, deems the pond and the artwork by Auke de Vries (installed in 2003) of high memorial value since they belong to the world-famous image of the ICTY with its imprint on the collective memory. The analyzed examples confirm the high memorial value of this spatial assembly (Churchillplein 1 façade, pond + artwork). It is important to note that elements of high memorial value have already been compromised or removed, e.g. the large satellite antenna adjacent to the building. This indicates a level of urgency in documenting the existing state, in this research pursued through Laser scanning of essential spaces (Figure 5.19).

Figure 5.19. A sample laser scan of the building to document segments of high memorial value. © UvA 4D Lab.

Churchillplein 1 ground floor: The entrance lobby and central hall feature prominently in the history of the ICTY, and have the potential to become a central location for explaining the evolution of the whole building, from its inception in the 1950s until the present day (see Spatial evaluation: Ground floor, photographs 0.01, 0.02 and 0.03). Elements like the security doors in the entrance lobby and toward the two wings of the building are here mapped as of "high memorial value."

– FIRST FLOOR:
Significant interventions took place here in the 1990s in order for the ICTY to perform its function. While these were done at the expense of the original spatial and architectural quality, these changes are integral part of the memorial value of the building. Constructing these spaces—courtroom, public gallery and booths—was difficult because of the lack of financial support at the time, but that everything was indeed set up to function in 1994, even if the quality of execution was low, can still be seen as a success. This is an important detail in the narrative of the ICTY as an *ad h*oc court characterized by decisions and processes that were equally *ad hoc* relating to the effective functioning of the Tribunal. This is a crucial point for understanding the historical context in which the ICTY originated and developed, and is today recognized as a globally relevant example after the Nuremberg Trials. *Ad hoc* though its construction may have been, the courtroom today represents an encapsulated memory. Immensely significant events took place here. Victims faced the accused for the first time, shattering testimonies took place, crucial evidence was represented, confessions were made, several high-profile important verdicts were pronounced. There were even incidents like Slobodan Praljak's suicide in protest against the judges' ruling. Preserved in its original state, the courtroom instantly communicates the "sense of place" reinforced by authentic furniture, equipment such as cameras, headphones, and microphones, stains on the carpet, door handles, and even signs that were put up at that time and are still there. This "sense of place" is the reason why IRMCT currently uses this room (and the adjacent public gallery) to explain to visitors what happened during the ICTY trials.

– SECOND FLOOR
As on the first floor, numerous architectural interventions took place here to facilitate the rapidly evolving scope and logistics of the Tribunal, namely the installation of the Trial Chamber 3, the public gallery, the holding cells, and the accompanying booths and logistical spaces. The spiral staircase that was added in 1998 by the Arcadis architecture bureau was the only access for visitors to the public galley of Trial Chamber 3, and is accordingly revised to high memorial value in this report. While the former public gallery has since been transformed into a meeting room, several important details are still in place, like the glass wall separating the gallery from the courtroom. Additionally, the original furniture of Trial Chamber 3 is stored on this floor (see Spatial

mapping 2.11 and 2.12). Temporary holding cells are preserved with the original communications system.

– UPPER FLOORS (3rd, 4th, 5th, 6th)
  All floors above the second floor were occupied by offices and logistics. These spaces are not essential to preserving the historical importance of the ICTY. Corridors are mapped as of positive memorial value since they do convey the operational character and the overall dynamics of the ICTY (e.g. expansion and growth over time). One important aspect is the view over the city available from the fifth floor, which could, potentially, be explored for the purpose of narrating the history of the ICTY while establishing a visual connection with its larger spatio-historical context. All additions to the structure and the elevations are designated as of either positive or high memorial value due to their formative role in the creation of the image of the ICTY in the public eye and the collective consciousness.
– ELEVATIONS: All elevations, except the north-west elevation, are designated with high memorial value since they are essential in forming the public image of the ICTY in the collective memory. Together with the fence surrounding the building as well as the front area with the pond, elevations form an ensemble of high memorial value. Volumes added over the years (e.g. additions visible on the third floor) that altered the original architectural design belong to the overall high memorial value and, together with the fencing, need to be preserved as they are. Additionally, elevations of the inner courtyard also have a positive memorial value deriving from their role in composing a comprehensive image of the ICTY for visitors and other stakeholders.
– ROUTES: Four key routings that we identify in this report—used by accused, witnesses, judges, and visitors respectively are designated as of high memorial value since they are equally important for the conveying of the operational history of the ICTY. These routes are dispersed across the basement, ground floor, and first and second floors. Most of the routes are currently in the same material state as they were during the operation of the ICTY and hence require preservation pending further research that can likely render these routes even more nuanced and precise.

MAPPING: photo's ICTY and Sabina Tanović; mapping: © Sabina Tanović.

SPATIAL EVALUATION OF THE MEMORIAL VALUE

The memorial value of Churchillplein 1 presupposes its architectural monumental value as well as its legal monumental value defined by the use of the building during the ICTY operation, routes used by different stakeholders, high-profile trials and events, personal and collective memories and narratives

Spaces designated as 'high memorial value' are deemed essential/relevant for conveying the past. This means that the totality of a space (i.e. disposition, furnishing, found equipment and so forth) designated with high memorial value needs to be preserved as it is.

Spaces designated as 'positive memorial value' are deemed important for conveying the past. This means that these spaces need to be carefully considered before any changes take place.

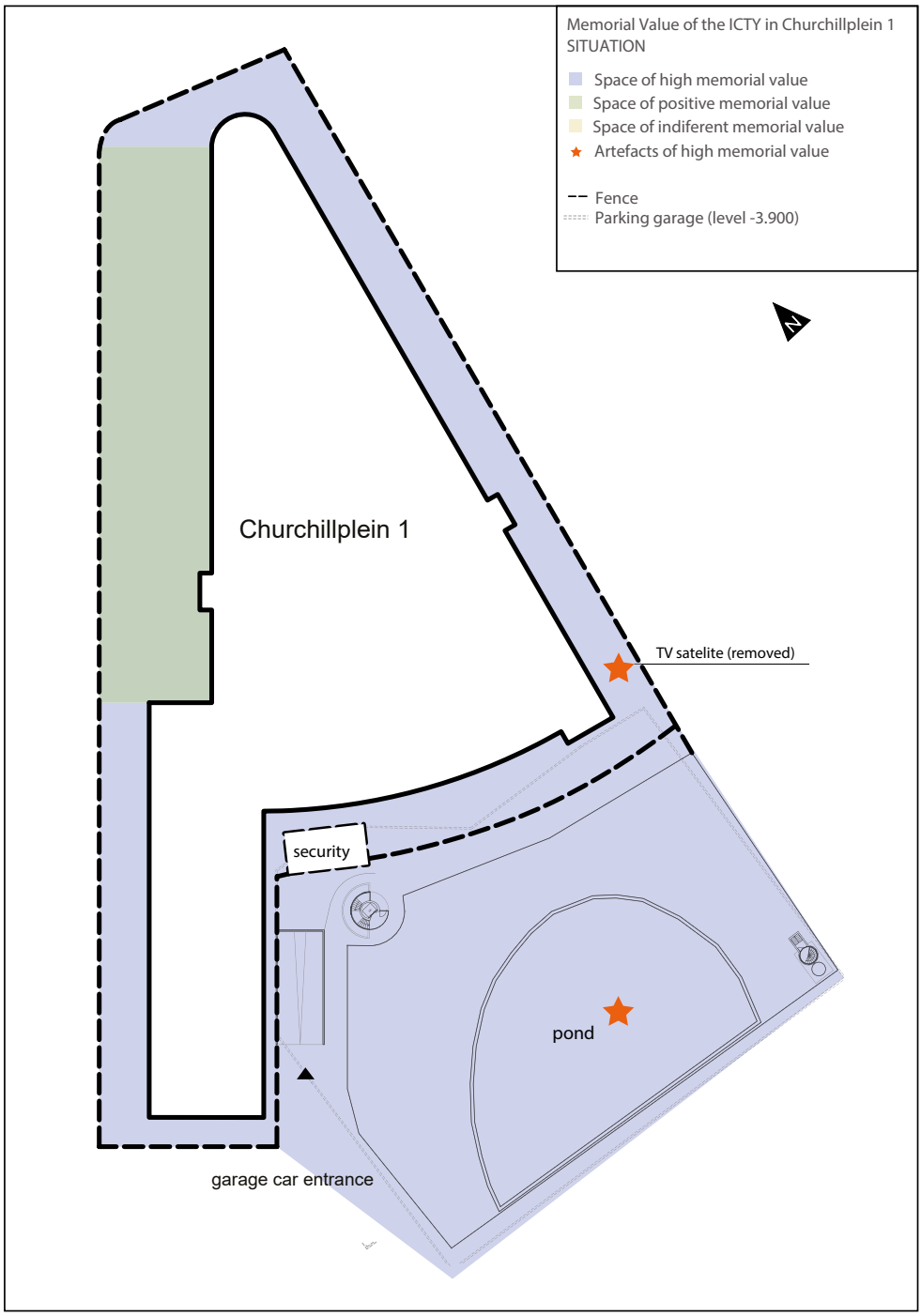
Spaces designated as 'indiferent memorial value' are predominantly for logistical and office purposes and hence not essential for conveying the history of the ICTY.

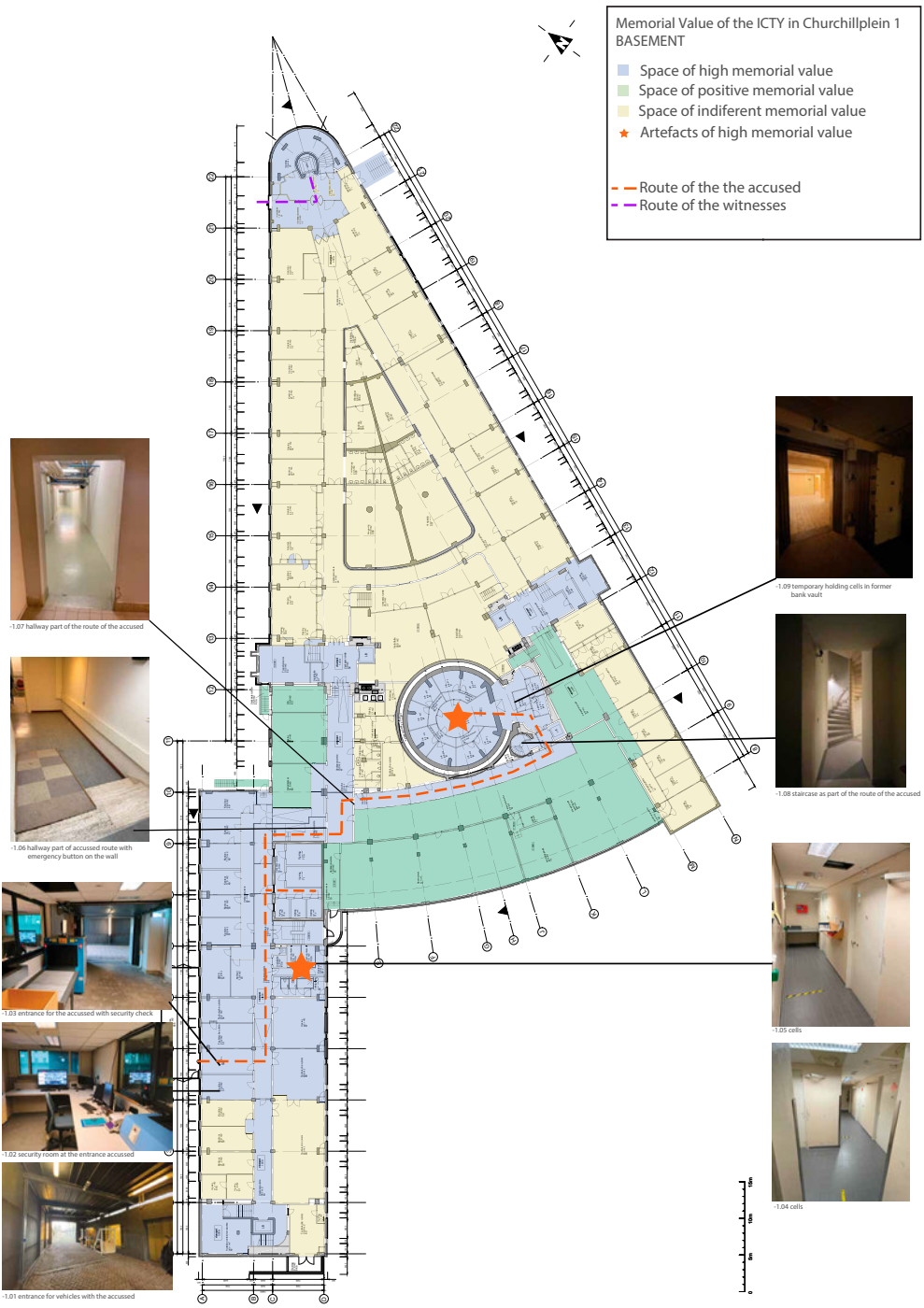
Artefacts of high memorial value for the ICTY period

Different stakeholders used designated routes throughout the building. These routes are of high memorial value since they are essential in communicating the history of the ICTY.

Route of the judges
Route of the the accused
Route of the witnesses
Route of the visitors

* Original architectural drawings of Churchillplein 1 are property of the Rijksvastgoedbedrijf, 2021.

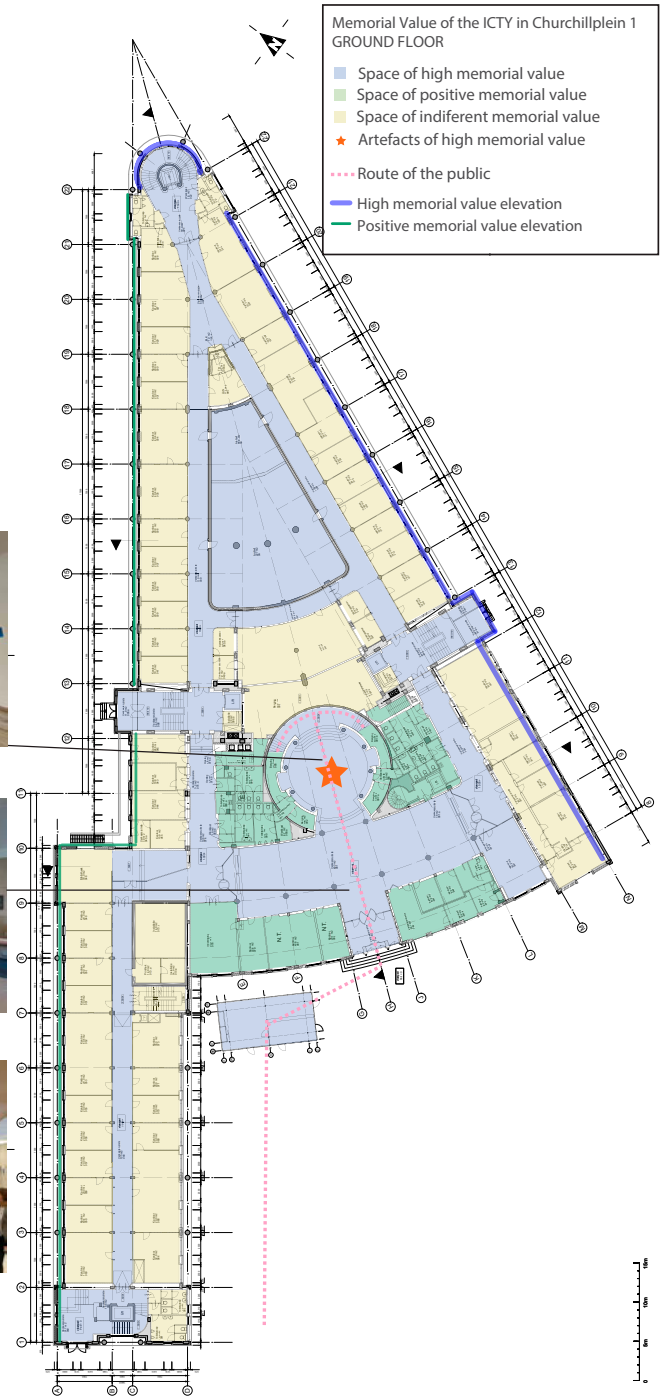

Memorial Value of the ICTY in Churchillplein 1
SITUATION
Space of high memorial value
Space of positive memorial value
Space of indiferent memorial value
Artefacts of high memorial value
Fence
Parking garage (level -3.900)
N
Churchillplein 1
TV satelite (removed)
security
pond
garage car entrance

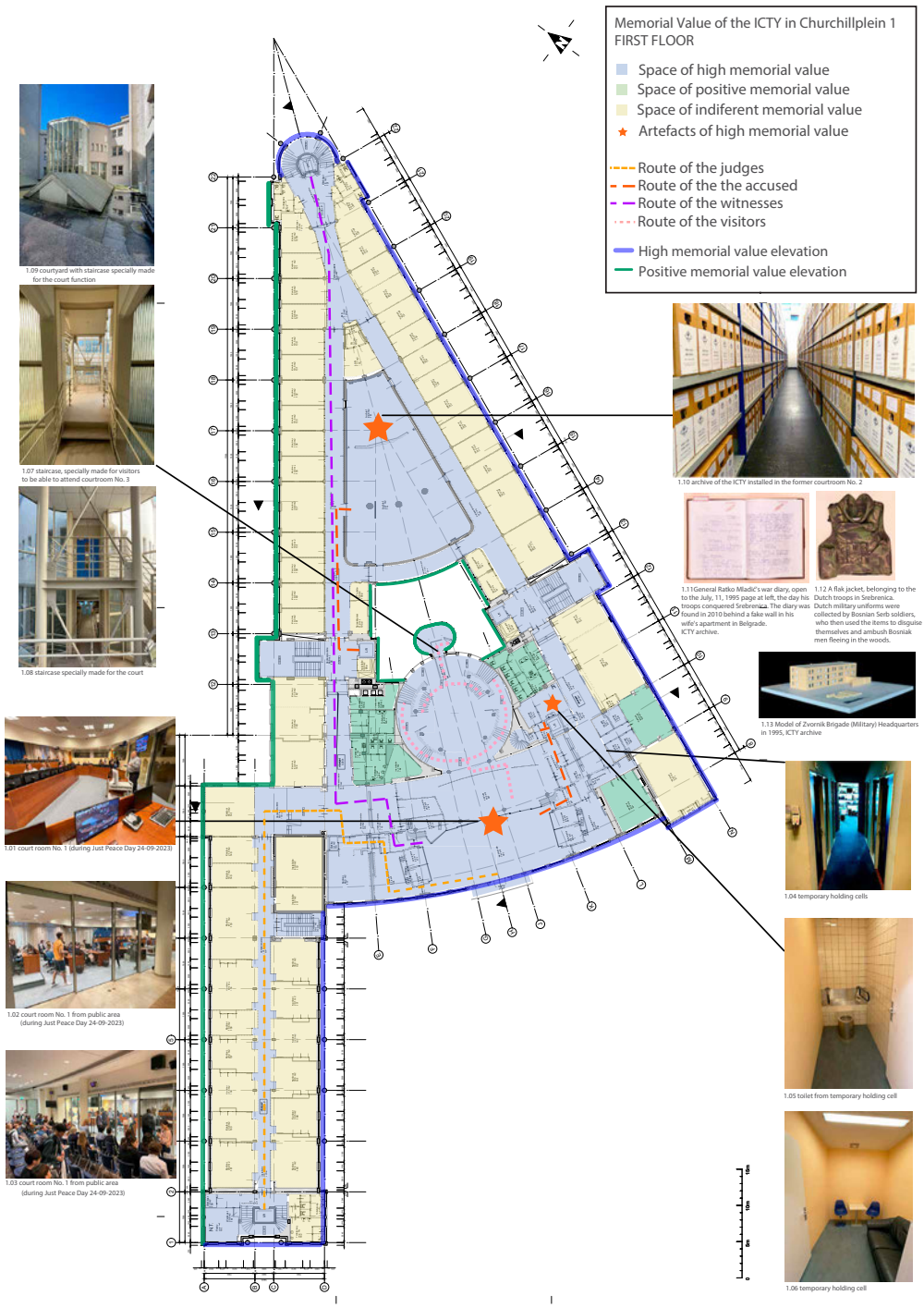

Memorial Value of the ICTY in Churchillplein 1
BASEMENT
Space of high memorial value
Space of positive memorial value
Space of indiferent memorial value
Artefacts of high memorial value
Route of the the accused
Route of the witnesses
-1.07 hallway part of the route of the accused
-1.06 hallway part of accussed route with emergency button on the wall
-1.03 entrance for the accussed with security check
-1.02 security room at the entrance accussed
-1.01 entrance for vehicles with the accussed
-1.09 temporary holding cells in former bank vault
-1.08 staircase as part of the route of the accused
-1.05 cells
-1.04 cells

0.01 Central hall

0.02 Lobby, public entrance
Just Peace Day (24-09-2023)

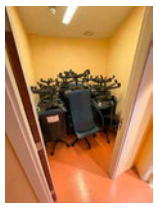
0.03 Lobby, public entrance
Just Peace Day (24-09-2023)

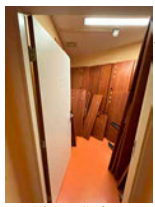



Memorial Value of the ICTY in Churchillplein 1
FIRST FLOOR
Space of high memorial value
Space of positive memorial value
Space of indiferent memorial value
Artefacts of high memorial value
Route of the judges
Route of the the accused
Route of the witnesses
Route of the visitors
High memorial value elevation
Positive memorial value elevation
1.09 courtyard with staircase specially made for the court function
1.07 staircase, specially made for visitors to be able to attend courtroom No. 3
1.08 staircase specially made for the court
1.01 court room No. 1 (during Just Peace Day 24-09-2023)
1.02 court room No. 1 from public area (during Just Peace Day 24-09-2023)
1.03 court room No. 1 from public area (during Just Peace Day 24-09-2023)
1.10 archive of the ICTY installed in the former courtroom No. 2
1.11General Ratko Mladić's war diary, open to the July, 11, 1995 page at left, the day his troops conquered Srebrenica. The diary was found in 2010 behind a fake wall in his wife's apartment in Belgrade. ICTY archive.
1.12 A flak jacket, belonging to the Dutch troops in Srebrenica. Dutch military uniforms were collected by Bosnian Serb soldiers, who then used the items to disguise themselves and ambush Bosniak men fleeing in the woods.
1.13 Model of Zvornik Brigade (Military) Headquarters in 1995, ICTY archive
1.04 temporary holding cells
1.05 toilet from temporary holding cell
1.06 temporary holding cell


2.07 audience gallery court room No. 3 with new office furniture

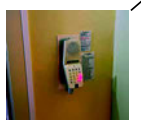

2.08 audience gallery court room No. 3 with new office furniture

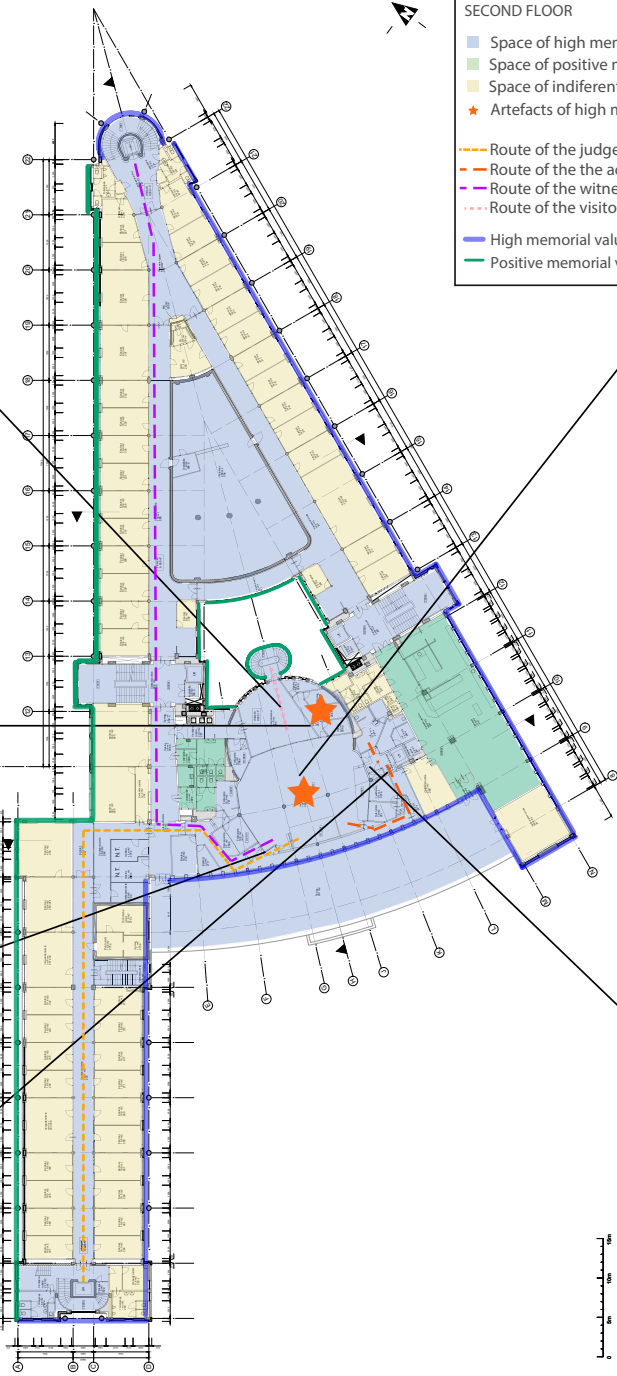

2.11 original courtroom No. 3 furniture


2.12 original courtroom No. 3 furniture

★ stored original courtroom furniture is of high memorial value


2.09 doorknocker for signaling judges


2.10 communication system still present on many places in the building

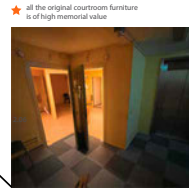



2.01 court room No. 3 with some original furniture and new office furniture

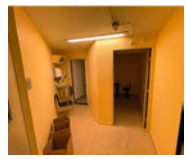

2.03 court room No. 3 with some original furniture

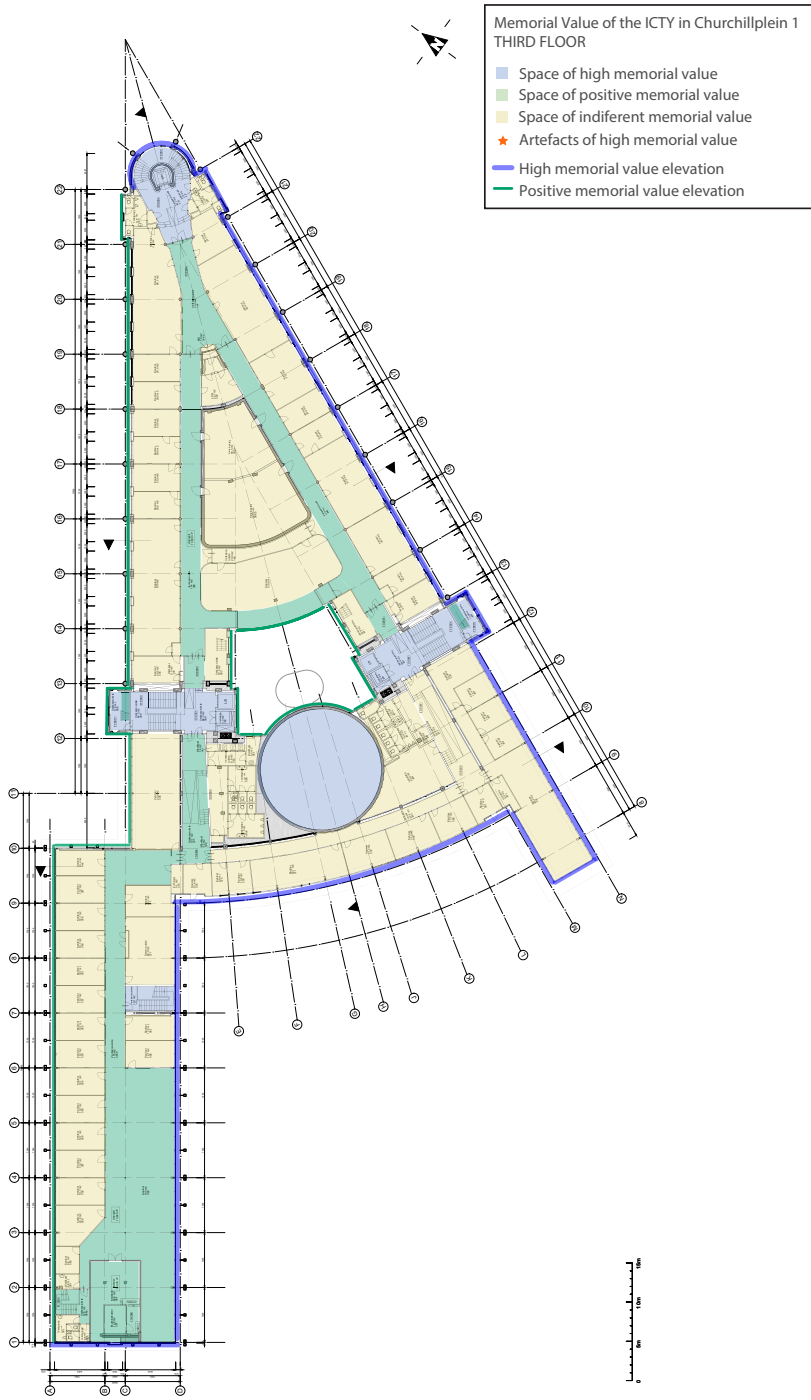

2.02 court room No. 3 with some original furniture

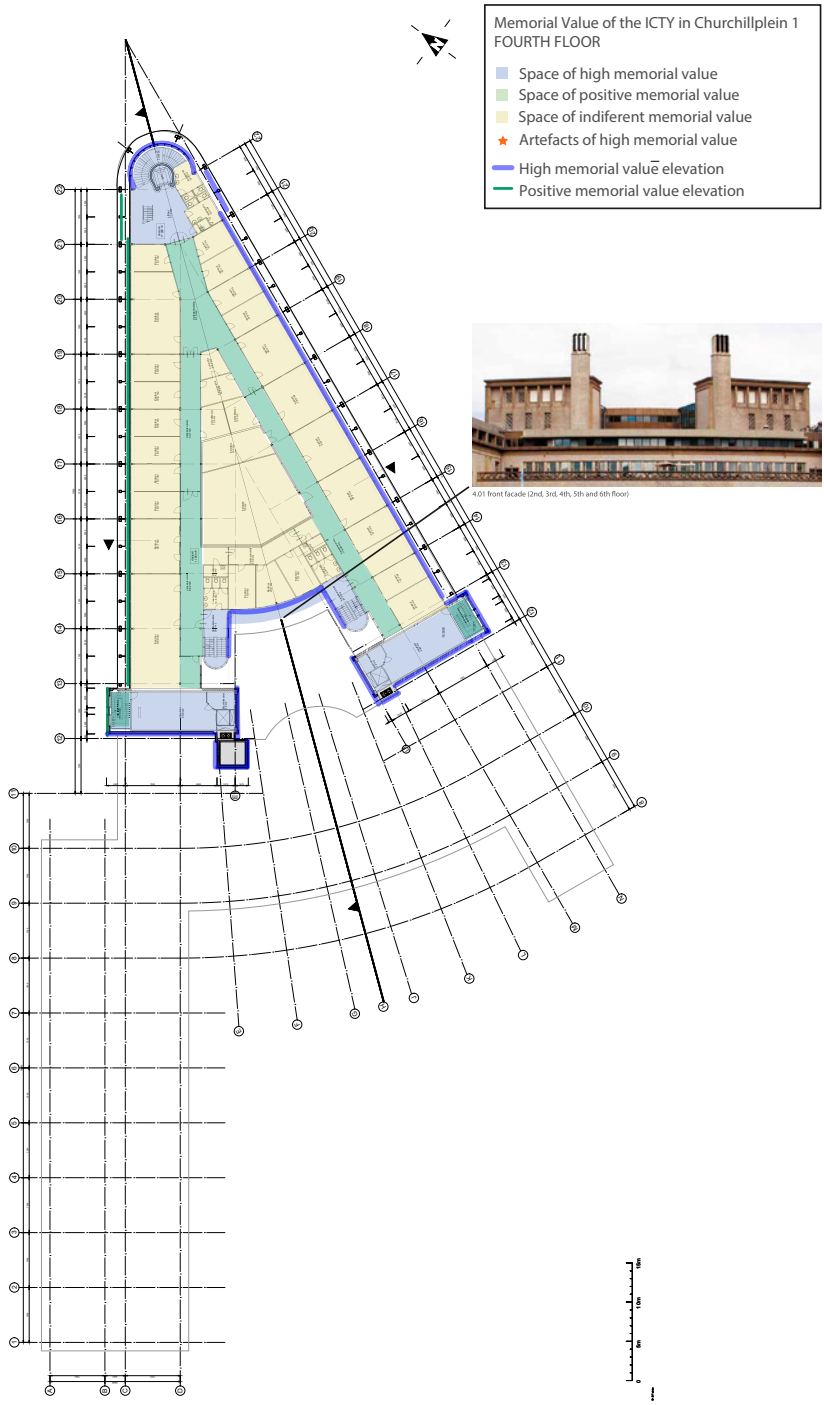
★ all the original courtroom furniture is of high memorial value

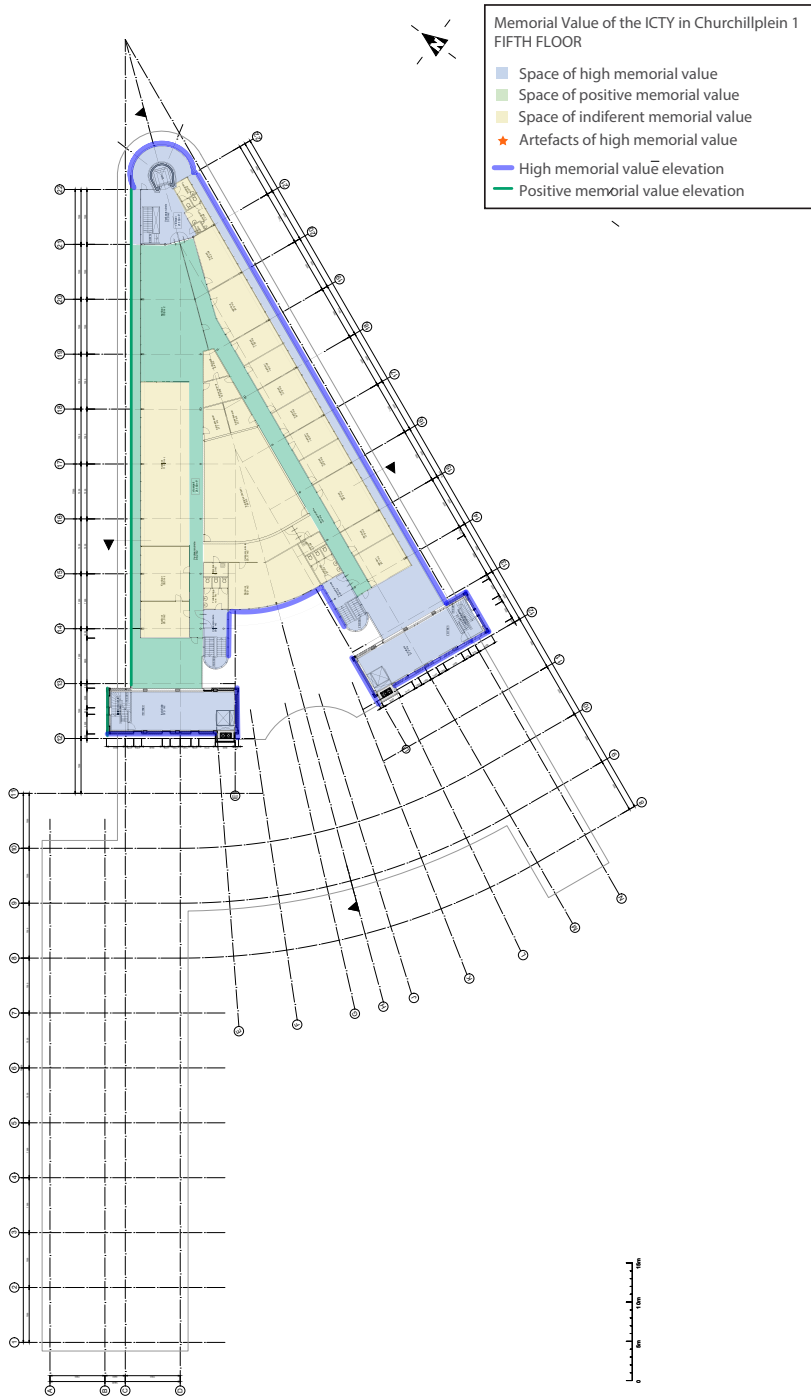

2.04 hallway temporary holding cell

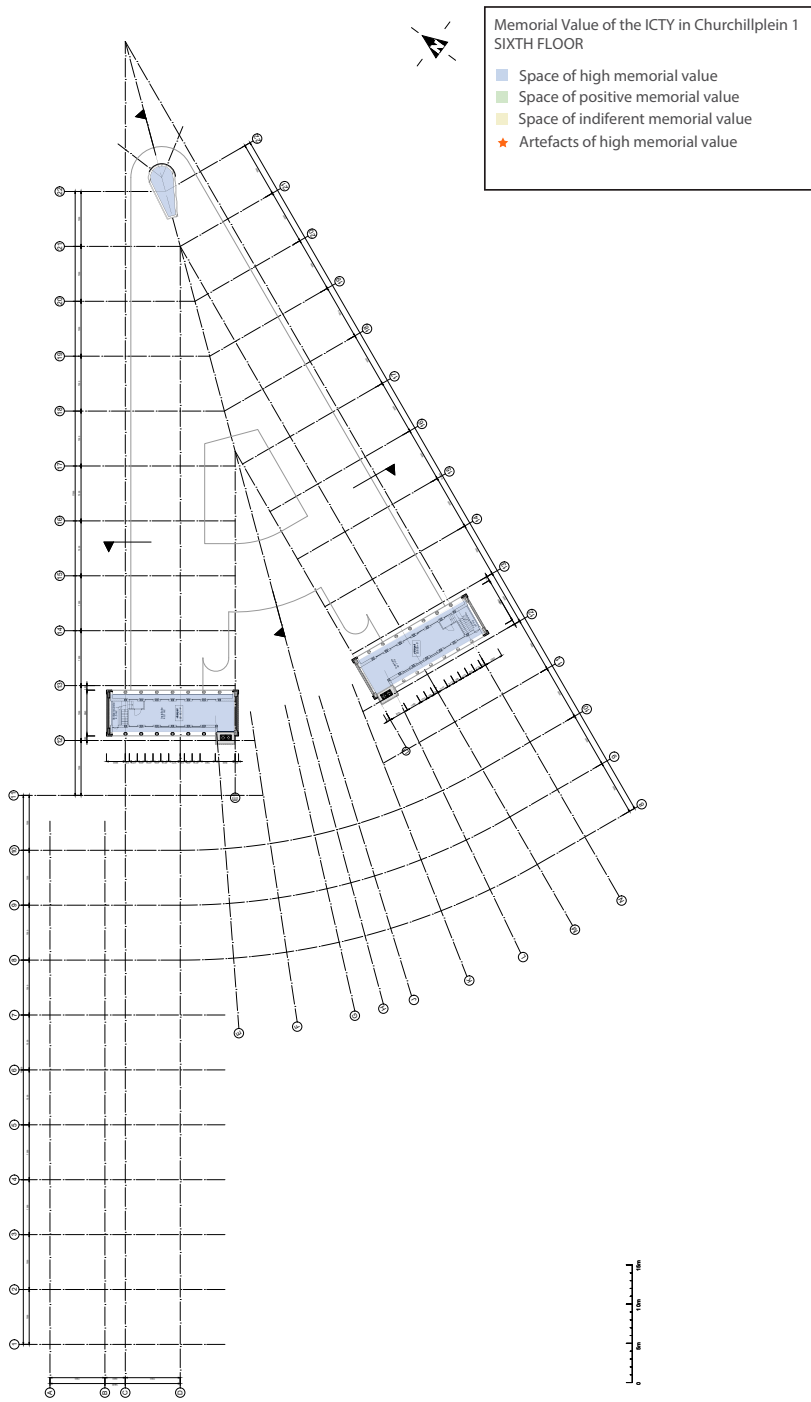

2.05 temporary holding cell

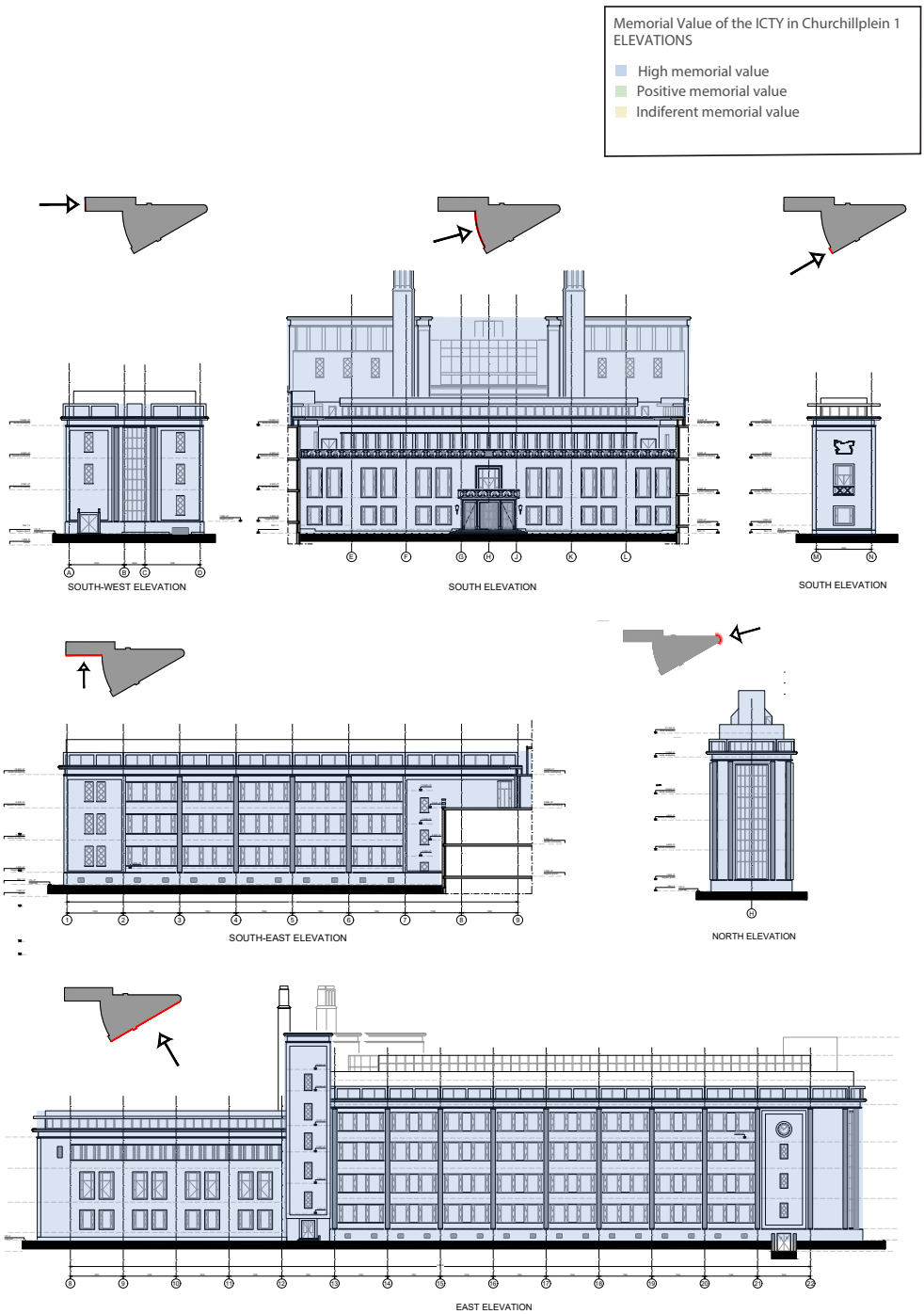

2.06 temporary holding cell

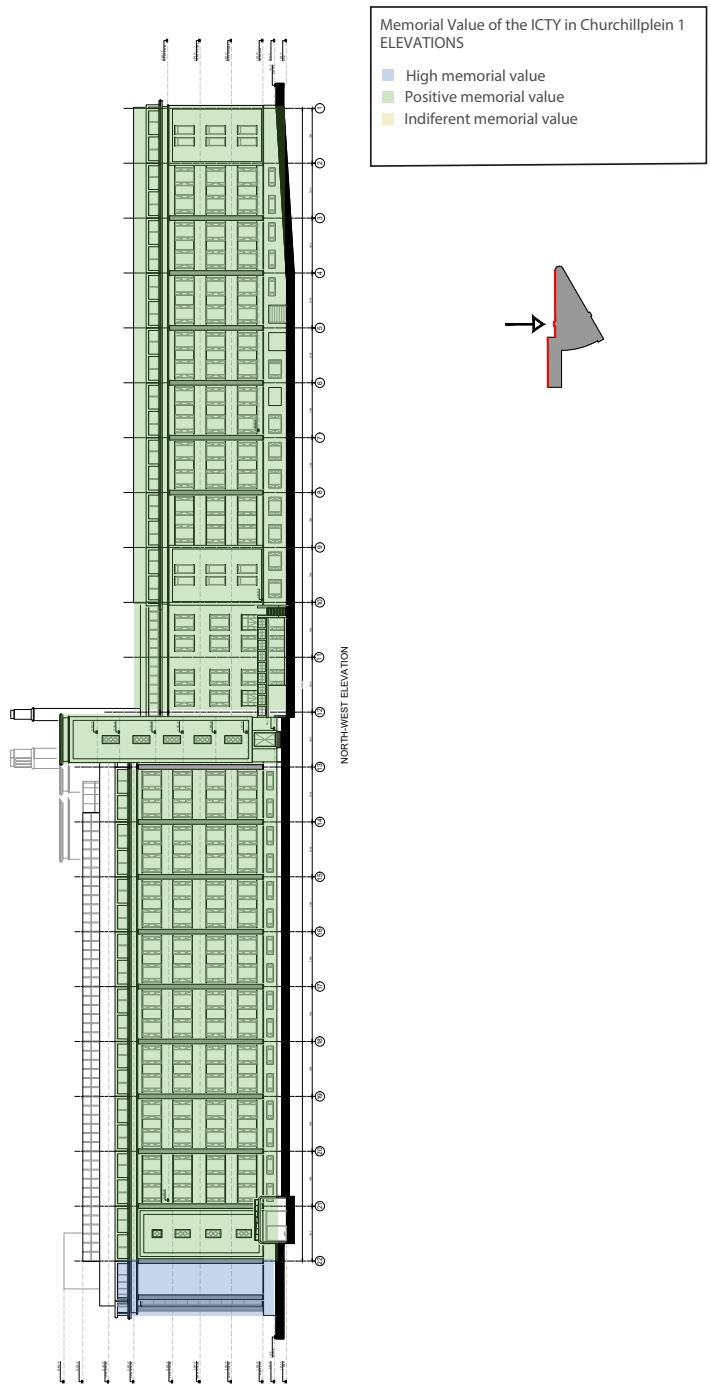

Memorial Value of the ICTY in Churchillplein 1
THIRD FLOOR
Space of high memorial value
Space of positive memorial value
Space of indiferent memorial value
Artefacts of high memorial value
High memorial value elevation
Positive memorial value elevation

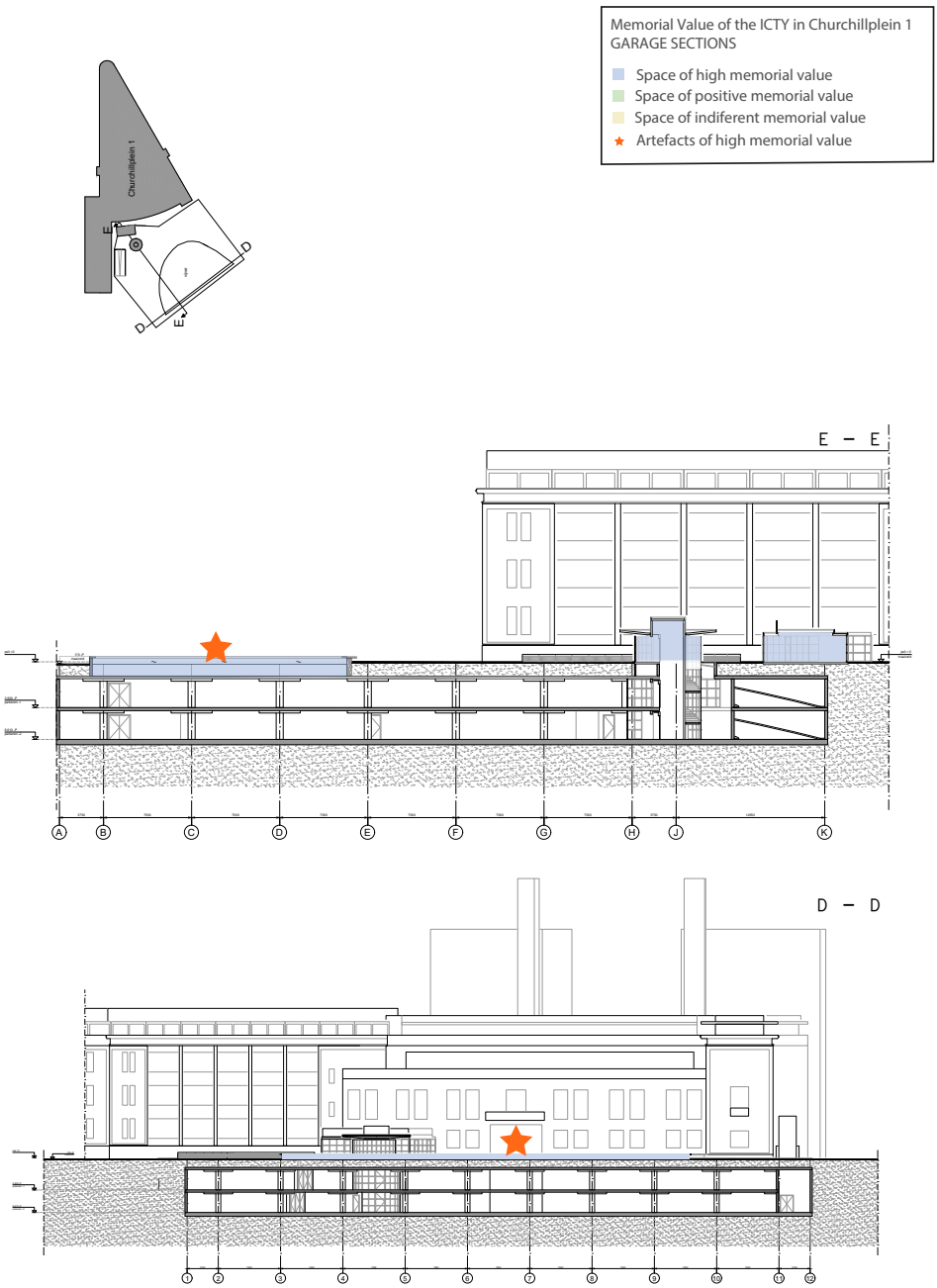

Memorial Value of the ICTY in Churchillplein 1
FOURTH FLOOR
Space of high memorial value
Space of positive memorial value
Space of indiferent memorial value
Artefacts of high memorial value
High memorial value elevation
Positive memorial value elevation
4.01 front facade (2nd, 3rd, 4th, 5th and 6th floor)


Memorial Value of the ICTY in Churchillplein 1
FIFTH FLOOR
Space of high memorial value
Space of positive memorial value
Space of indiferent memorial value
Artefacts of high memorial value
High memorial value elevation
Positive memorial value elevation


Memorial Value of the ICTY in Churchillplein 1
SIXTH FLOOR
Space of high memorial value
Space of positive memorial value
Space of indiferent memorial value
Artefacts of high memorial value


Memorial Value of the ICTY in Churchillplein 1
ELEVATIONS
High memorial value
Positive memorial value
Indiferent memorial value
SOUTH-WEST ELEVATION
SOUTH ELEVATION
SOUTH ELEVATION
SOUTH-EAST ELEVATION
NORTH ELEVATION
EAST ELEVATION


Memorial Value of the ICTY in Churchillplein 1
ELEVATIONS
High memorial value
Positive memorial value
Indiferent memorial value
NORTH-WEST ELEVATION


Memorial Value of the ICTY in Churchillplein 1
GARAGE SECTIONS
Space of high memorial value
Space of positive memorial value
Space of indiferent memorial value
Artefacts of high memorial value
Churchillplein 1
E
E
D
D
E – E
A
B
C
D
E
F
G
H
J
K
D – D
1
2
3
4
5
6
7
8
9
10
11
12

Notes

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19. Jeffrey K. Olick, 2005 "In the House of the Hangman: The Agonies of German Defeat, 1943– 1949," Chicago. IL: Chicago University Press.
20. Interview with a curator at Memorium Nuremberg Trials, March 21, 2024.
21. Interview with a curator at the Memorium Nuremberg Trials, March 21, 2024.
22. Press: Memorial Nuremberg Trials: Financing, Building, Companies Involved in Construction, 2010. https://museums.nuernberg.de/fileadmin/mdsn/pdf/Memorium/Press_Releases/2010_11_05_Memorium_Bau_Finanzierung_en.pdf.
23. The Art Directors Club for Germany (ADC) awarded the media installation the ADC Silver Nail in 2023. The competition annually honors the best communication and design achievements in the German-speaking world. The jury announced: "With the media installation in Courtroom 600, the past is brought to life by linking real space and media set pieces from the past. This is a unique display of the history that would otherwise not be possible to achieve in such an impressive way. https://museums.nuernberg.de/memorium-nuremberg-trials/permanent-exhibition/media-installation.
24. Renske Vos and Sofia Stolk, Courtroom 600: The (Virtual) Reality of Being There. November 2021. International Criminal Law Review 22(1-2):1-20, 10.
25. Interview with a curator at Memorium Nuremberg Trials, March 21, 2024.
26. https://museen.nuernberg.de/panorama/saal-600/.
27. Memorium Nuremberg Trials: The Exhibition. Museen der Stadt Nürnberg catalogue, 2023.
28. Mark Somos and Morgan Gostwyck-Lewis, "A New Architecture of Justice: Dan Kiley's Design for the Nuremberg Trials' Courtroom" (April 19, 2018). Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper No. 2018-04, 25.
29. Stadt Nürnberg Planungs- und Baureferat. "Umgestaltung des Umfeldes am Memorium Nürnberger Prozesse und Neubau eines BesucherInnenzentrums. Offener hochbaulicher und freianlagenplanerischer Ideen- und Realisierungswettbewerb." Nuremberg: Stadt Nürnberg. 2023. https://www.nuernberg.de/imperia/md/qb_weststadt/dokumente/west_web_memorium_broschuere.pdf.
30. "About the Project." City of Sarajevo official website. https://icmksj-sarajevo.ba/en/about-the-project/ The UN Security Council Resolution No. 1966/2010

which established the UN International Residual Mechanism for Criminal Tribunals (IRMCT/Mechanism) as the official legal successor of the ICTY with a provision stating that "the ICTY and the IRMCT are obliged to cooperate with the countries of the former Yugoslavia through the establishment of information and documentation centers by providing them with access to the ICTY and Mechanism's public records, contained in its online database".

31. Helen Walasek, ed., *Bosnia and the Destruction of Cultural Heritage* (London/New York: Routledge, 2015).
32. Kristen M. Hartmann, Fragmentation and Forgetting: Sarajevo's Vijećnica. International Journal of Heritage Studies 22(4), 2016: 312—324.
33. "About the Center." City of Sarajevo official website. https://icmksj-sarajevo.ba/en/about-the-centre/.
34. The exhibition includes the following topics: Establishing the Facts, Bringing Justice to Victims, Holding Leaders Accountable, Individualizing Guilt, Giving Victims a Voice, Strengthening the Rule of Law.
35. Written statement by Benjamina Karić, Mayor of Sarajevo, February 2024, and interview with a specialist from the Sarajevo Information Center, February 19, 2024.
36. Interview with a chairman of the NMSG95 foundation. Annual commemorations are organized by Srebrenica Herdenking: https://www.srebrenica-herdenking.nl/.
37. Marjolein Uittenbogaard, "Remembering Beyond the Divide: Assessing the Victim-Perpetrator Dichotomy in the Dutch Collective Memory of the Srebrenica Genocide": Humanities Research Masters: Global History, Faculty of Humanities, Vrije Universiteit Amsterdam (June 23, 2023), 75. See also Koninklijke Nederlandse Akademie van Wetenschappen, *W*ankele Sokkels, 132-139.
38. See for example "*Temporary Monument—Srebrenica is Dutch history* (2020)" *by Bosnian Girl* (*Arna Mačkić, Daria Bukvić, Emina Ćerimović and Ena Sendijarević*). *https://framerframed.nl/en/expositities/temporary-monument/. See also Srebrenica is Nederlandse Geschiedenis https://srebrenicaisnederlandsegeschiedenis.nl/*
39. Uittenbogaard, "Remembering Beyond the Divide," 75.
40. J. R. Vollhardt (ed.). (2020). *The social psychology of collective victimhood*. Oxford: Oxford University Press.
41. Nedžad Avdić and Amela Avdić Unkić, *Ja, haški svjedok,* ISBN: 978-9926-474-85-0.
42. Interviews with survivors of the Bosnian genocide who are also genocide scholars and activists including Satko Mujagić.
43. Interview with a chairman of the NMSG'95 working group.
44. "Our Tribunal: A collection of Essays and Drawings by Young People from Bosnia and Herzegovina." Outreach Program, Registry ICTY, November 2013.
45. Our Tribunal, 2013. See also the controversy surrounding the memorial viaduct "Soldaat der 1e klasse Jeffrey Broere" at Arnhem in 2023, in: Koninklijke Nederlandse Akademie van Wetenschappen, *W*ankele Sokkels, 138.

46. Foundation National Monument Srebrenica Genocide '95 officially registered in The Netherlands as: Stichting nationaal Monument Srebrenica Genocide '95.
47. In July 2020, on the occasion of the national Srebrenica commemoration 25 years after the Srebrenica genocide, Mayor Jan van Zaanen stated his support for a national Srebrenica Monument in The Hague. That same year, Minister of Defense Ank Bijleveld-Schouten, Minister of Foreign Affairs Stef Blok, Ambassador of Bosnia & Herzegovina Mirsada Čolaković, and Mayor of Rotterdam Ahmed Aboutaleb also publicly supported the initiative. Quick Scan Churchillplein: National Monument Srebrenica Genocide '95. October 2022, version 2.1., 8.
48. NMSG'95 includes various relevant stakeholders, such as Dutchbat 3, the Srebrenica survivors' organization and the Platform for Bosnia and Herzegovina. The initiative works together with the Municipality of The Hague (Gemeente Den Haag), the Ministries of Defense and Internal Affairs, and the Chief Government Architect's Office (Atelier Rijksbouwmeester, ARBM).
49. Quick Scan Churchillplein 2022.
50. Discover Broken Chair. Official website: https://www.handicap-international.ch/en/broken-chair.
51. Saskia Bruines, "Programmaboek: Nationale Herdenking Srebrenica Genocide," The Hague, July 11. Available here: https://www.srebrenica-herdenking.nl/wp-content/uploads/2024/07/Programmaboek-2024-NL-1.pdf. Accessed November 4, 2024.
52. Interview with a coordinator and a researcher of the IRMCT.
53. See UN headquarters in New York City, where topic-based tours are offered: Standard Guided Tour. Official website of the UN. https://www.un.org/en/visit/tour
54. Crimson Report 2021, 244-245.
55. Crimson Report 2021, 253.
56. Crimson Report 2021, 198.
57. Crimson Report, 248.

Chapter Six: Monument of Memory: Conclusion and Recommendations

Figure 6.1. Portrait relief 'Ir A.v.d. Steur' in Churchillplein 1. Photo Rob van der Laarse.

"This is a building block of international law. If you had like, I don't know, a sort of a puzzle or something, this is like a key bit of it. If you took it out, the entire thing would collapse… There would be no ICC without this. So I think it would just be such a short-sighted mistake for the city and the country to just so easily dump that legacy…, I think this is like a vital building block—had the ICTY failed, the entire international legal infrastructure, I think would not exist the way it does today."[1]

An interpretation of the site of the Former Yugoslavia Tribunal must begin with a direct inspection of the building. After crossing the square with its distinctive pond, and passing through the security checkpoint, visitors will enter the impressive hall in the spatial grandeur of its curved space with warm marble decoration. Time seems to have stood still since the early 1950s, but if you take a closer look around you, you'll find clues that reveal something of its multiple dynamic meanings. A dark plaque on the side wall behind the glass entrance doors with the sculpted portrait of Adriaan van der Steur gives the impression of a watchful gaze on the visitor entering his creation (figure 6.1). By the time this building was built, Van der Steur, as a scion of a famous family of architects (his father was co-designer of the Peace Palace in The Hague), had made a name for himself as the city architect of Rotterdam and designer of iconic public buildings such as Museum Boymans-van Beuningen from 1935. It might therefore be that

Laarse, Rob van der, Charles Jeurgens, Sabina Tanović. *The Former "Yugoslavia Tribunal" as Monument of Justice: History, Heritage and Memory of the ICTY and IRMCT in the City of Peace and Justice*. Amsterdam: Amsterdam University Press, 2025.
DOI: 10.5117/9789048572014_CH06

entering the former bank head office would have given its employees the impression of a museum visit. Interestingly, a 1943 plan for an extension to the Rotterdam Museum (never realized) features a V-shaped wing and a large pool highly reminiscent of van der Steur's concept here.[2] This Hague monument, the architect's last design before his death in 1953, may thus by all means be appreciated as a summation of his oeuvre.

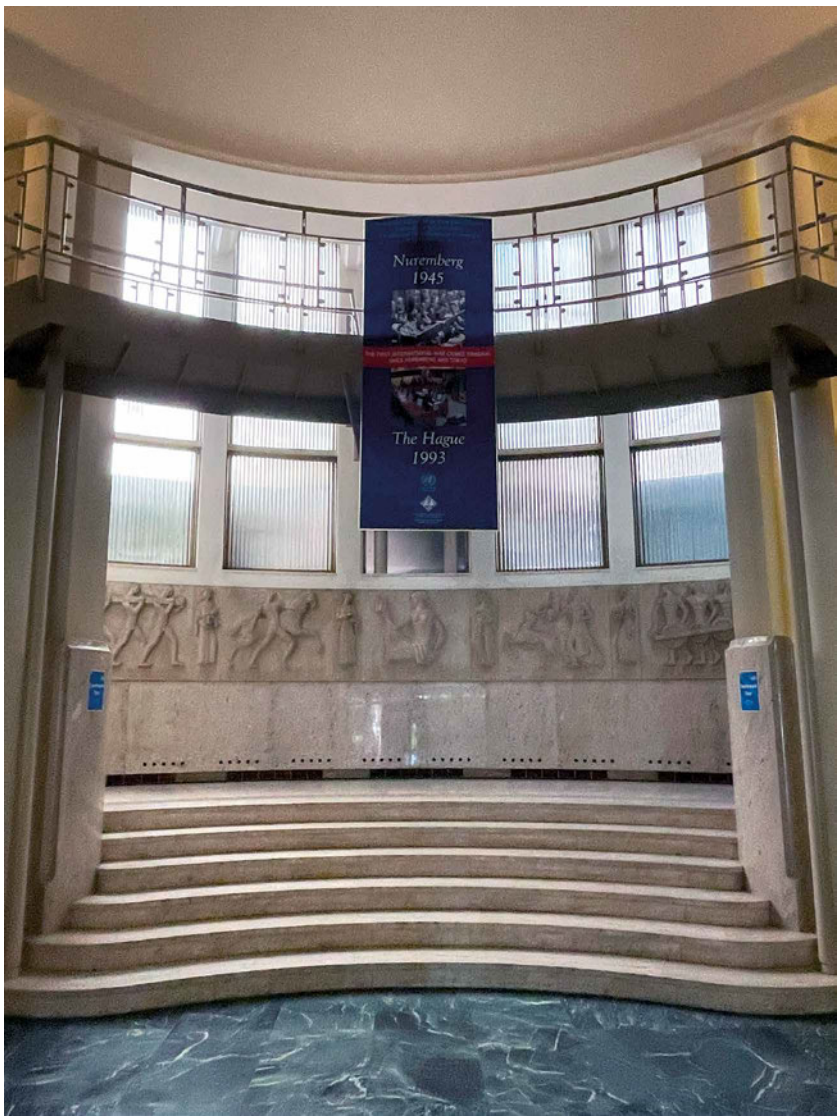

Figure 6.2. 'Nuremberg 1945 / The Hague 1993' banner in the central hall of Churchillplein 1. Photo Sabina Tanović.

Still, other visitors will immediately notice a prominent meter-long banner in the middle of the semicircular apse opposite the entrance. Against a blue background crossed horizontally with a red bar, we read, "The first International War Crimes Tribunal since Nuremberg and Tokyo." Above and below are two photos of the courts, with the names in capital letters: "Nuremberg 1945 / The Hague 1993." This will surely attract the attention of those who have come here because of the second life of this place as the former seat of the UN International Criminal Tribunal for the former Yugoslavia. The effect, however, is palimpsestic, with the banner suspended from the functional 1990s iron staircase leading to the first-floor courtroom, expertly fitted into the semicircular space whose walls are covered with dozens of portrait photographs of the judges in red robes. The current impression of this interplay is that of a composition of which the original harmony seems almost consciously intersected with dissonant functions and forms.

As a sanctuary of international law, the banner and staircase in the apse of the monumental hall therefore deserve a high degree of heritage protection. This has not only to do with the ensemble value, but also with the message. Contained in the functional distortion of the marble design, it emphasizes that those most responsible for violations of the international legal order have been brought to justice in this place, as a contribution to peace in the region and in the world. In this way, this experience of the site also shows that heritage interpretation is about more than just information. Even visitors who know the building's historical and legal background will be assured that this is a historic place where peace and justice were decided. The fact that for the first time since World War II international law and human rights were used in The Hague to bring all those responsible for a genocidal war on European soil to an impartial trial, is knowledge every EU citizen should have. Nowhere will this message be communicated more powerfully than here where it took place.

Monument and Memory

Churchillplein 1 appears to confront us with a dilemma: should we judge the building as a monumental work of art, or as a memorial heritage site by virtue of its cultural history and commemorative significance? The problem is that the two judgments may yield very different values, because the monument tells us nothing about the building's cultural meaning as a global icon for peace and justice, while the material traces of the Tribunal

period could be argued to detract from the monument. Yet, as this report has shown, this unique combination only reinforces the expressiveness of the place, which should accordingly be valued as a "legal monument," or a "Monument of Justice," as we call it here, because of the importance of witnessing, and of impartial justice.

Unlike most war and genocide memorials, this former EN-NEN/Aegon building is listed as national heritage. Importantly, its registration dates from 2009, fifteen years after the former bank headquarters was turned into the seat of the ICTY. According to the current Dutch Heritage Act, monuments are protected not only because of their monumental values, but also—and on an equal basis—because of their scientific, cultural, and historical significance, all of these being closely connected. One obvious example here is the archive (still on site) of the ICTY/IRMCT, which creates a unique challenge for what the law prescribes as "integral heritage policy." The building can be appreciated as an important architectural work, and an even more impressive global place of remembrance. As an icon for the development of international law, it is thus also a repository of one of the largest post-war archives of witness testimony, and a symbol commemorating the genocide in Srebrenica, whose intended national monument should preferably be located on the forecourt.

In the Committee's opinion it is precisely this intangible heritage, its symbolic value as a site of collective memory, that lies at the heart of the contemporary heritage debate. It will also be crucial to the current discussion regarding repurposing and restoration. After all, memorials raise questions about moral values in general. What is required here, even more than restoration principles and other practices of the built heritage, is an acknowledgment of dissonances. Repurposing and restoration are also indications of critical transformation phases, evoking emotions akin to those aroused by the relocation or toppling of memorials on "unstable pedestals"—to use the title of a recent KNAW-RCE advisory report on national memorials in the current era of public debate about the colonial past, war, and genocide.[3] Incidentally, this report is by no means limited to contested monuments, but touched on a wider domain of important, painful, and controversial heritage (*erfgoed van betekenis*, *betwist/beladen erfgoed*) with a rapidly increasing social impact, in which UNESCO and the Dutch government have also emphatically taken policy responsibility.[4] For all these transformations, policymakers, process managers, architects, and assessment bodies must be open to inclusive heritage strategies that provide space for questions, dilemmas, and debate.

Cultural Historical Meaning

It is for the reasons discussed above that the present report devotes a great deal of attention to the significance of the former ICTY—a significance that is still far from being sufficiently recognized in the Netherlands. Probably nowhere else, barring Auschwitz-Birkenau and Nuremberg, has the future of Europe has been so tested and, ultimately, secured as in The Hague. The Yugoslav Wars of 1991-1999 represented the most important struggle for peace, democracy, and human rights since 1945, fought at the cost of many civilian casualties and severely traumatized survivors, including UN peacekeepers. It was the "Hague Tribunal" that, building upon the Nuremberg Trials, first decided to apply the 1948 UN Genocide Convention. This also strongly influenced ongoing research and debate in a broader perspective concerning ethnic cleansing and genocide from the Holocaust to the Yugoslav Wars. It was also here that the new era of European history that had announced itself with the fall of the Berlin Wall in 1989, really started to unfold. And it was here that with the ICTY's legal contribution to reconciliation in the Balkans, at least most of Europe finally and famously transformed "from a continent of war into a continent of peace." For this, the EU was awarded the Nobel Peace Prize in 2012.[5]

The rhetoric of awakening, safeguarding, and warning seems to have lost none of its appeal, although national sites will inevitably change in form, presentation, and meaning under the influence of globalization—or, conversely, under the influence of illiberal trends that reinforce nationalist claims of martyrdom and silence other historical injustices.[6] The former building of the ICTY might still be highly valued as an architectural monument and a work of art. However, since being transformed from a private bank headquarters into an international criminal court as a result of the Yugoslav Wars, it has acquired a completely different universal significance—that of a legal monument, or Monument of Justice. As such, the former location of the Yugoslavia Tribunal is still virtually connected to the present-day trauma landscapes of the Balkans—also through the archives kept on site, with their connections to the stakeholder countries in the region and the diaspora communities in the Netherlands and Europe.

As an international symbol of the world's first trials for genocide, the building's monumental architecture has now become auxiliary to its extraordinary symbolic power. It is more than just a historical monument, as the site also functions as a living archive for the survivors and relatives of the victims of the genocide in Srebrenica, as well as other atrocities in and outside Bosnia-Herzegovina. The same applies to all refugee communities

from former Yugoslavia and citizens of post-Yugoslav countries, UN veterans, judges, prosecutors and defendants, researchers, journalists, students, schoolchildren, and many others. As a result, and without any major renovation, it is no longer possible to see the building as it was originally intended by its architect. Its place in the City of Peace and Justice and its international significance have turned the former ICTY building into a global memorial heritage site that has completely lost or transcended its former significance as an office building and its formal status as a listed built monument. Its unique value and significance are enshrined in the historical place where judges brought about peace through justice before the eyes of the world.

Functional Heritage Values

Considering the above, the Committee is of the opinion that the value of Churchillplein 1 as the former site of the ICTY and thus as a site of memory is unquestionably unique and irreplaceable. In support of this contention, the Committee would like to put forward the following five grounds for evaluation:

First, the site's important *symbolic function*, relating to the processes whereby Europe's worst war criminals since the Nazi era were investigated, arrested, tried, and sentenced. All this work was done at Churchillplein 1. The site thus deserves to be considered a unique place of remembrance for many stakeholders. For many members of former Yugoslav communities and Dutchbat veterans, an encounter with the place may help resolve traumatic memories of the conflict. Even if the Bosnian community (and some interviewed Dutchbat veterans) also caution that the ICTY frequently offered only partial justice or an unfinished process—it is still the most that has been done. An emphasis on the symbolic function also reinforces the importance of placing the Srebrenica Genocide Memorial in front of the Tribunal building. As a place of great historical significance to the victim community, and as a sign of recognition, the building has a vital role to offer for their processing of the traumatic past.

Secondly, the site fulfils a *liaison function*, as an expression of the involvement of the international community in the Yugoslav wars. The ultimate success of the Hague Tribunal and the convictions for genocide in this context can hardly be separated from the failed UN military peacekeeping operations in Srebrenica, but the legacy of the Tribunal and the UN peacekeeping mission is broader, and the recent apologies show that there is room for an open approach to conflictual history and conflicted memories in a transnational context.

Thirdly, the unique and irreplaceable value of the Hague Tribunal is directly connected to the historic events of the Yugoslav Wars and the Srebrenica genocide, lending it an *iconic function*.

Fourthly, the ICTY, as the main heir to Nuremberg, has a unique *chain function* in the development of international law. The Tribunal in The Hague was both the direct successor of the International Military Tribunal in Nuremberg in 1945-46 and the direct predecessor of the Rome Statute of the current, permanent International Criminal Court in The Hague. In the words of one of the ICTY prosecutors, fifty years after Nuremberg, "Collectively, we are linked to Nuremberg. We mention its name every single day."[7]

Finally, the Former Yugoslavia Tribunal building is unrivaled in its *benchmark function* for research on international law and transnational justice in the aftermath of genocide, as well as in its role of witnessing (and the equally enormous number of testimony records) for both the prosecution and the trial of suspects, which hardly played a role in the Nuremberg trials.

Recommendations for a Transition Framework

The ICTY scores high on all the above functional criteria, a clear indication of its high monumental and memorial value. While the listed monument status of Van der Steur's (still largely intact) design leaves little room for impairment of its protected materiality, appearance, and volume (as evidenced by the municipality's rejection of the previous owner's renovation proposal detailed above), it is important to note that the new guidelines for dealing with memorial heritage pursuant to the 2016 Heritage Act must be taken into account in consideration of the heritage and memorial values of the site. As we have seen, the memorial heritage of the ICTY is linked to collective and personal, often traumatic, memories of oppression and war.[8] Ample reason, therefore, to map out the dilemmas regarding the repurposing of politically charged public buildings, and to attach appropriate weight to them.

In this context, the Committee would like to draw particular attention to the traumatic memories (including those of veterans, often neglected) associated with the trials that took place in this building. At the same time, the importance that the ICTY attached to careful adjudication on the basis of international law by international judges, and the delegation of lower cases to national courts in all relevant countries, made an important contribution to transitional justice in the region. Partly because of this, most

stakeholders in the region see any potential "threat" to these memory and heritage values as painful denial, as has been sufficiently demonstrated by visits to and interviews with witnesses from the region, and heritage and international experts.

The Committee therefore strongly recommends that the government, as the legal owner, legislator, and policymaker, should ensure that the redevelopment process is carried out in a transparent manner. This will require the participation of all relevant stakeholders, from government heritage organizations and the municipality to legal and memory experts, as well as regional stakeholders and Dutch-Yugoslav memory activists, already involved in the development of the national Srebrenica Monument. Only then will the redevelopment process be in accordance with the inclusive, dialogical approaches prescribed by national heritage guidelines developed for this purpose. Furthermore, the Committee also strongly recommends cooperation with the United Nations/IRMCT as the current tenant, user, and legal owner of significant mobile heritage, such as the on-site courtrooms and most of the subsequently added elements in the building. This includes the archive, for which the report discusses various options for on-site or digital accessibility, including in case of possible relocation. As a long-term user, the UN/IRMCT has strongly influenced the institutional organization and symbolic meaning of the site, and it undoubtedly possesses leading expertise and sources for a potential development of the building as a living archive, legal monument, or a memorial site. Such a cooperation would be highly recommended.

It should also be emphatically noted that contemporary heritage legislation imposes an obligation to protect the entire biography of the building, including important reversible additions, not least in the immediate vicinity and in the forecourt. After all, it is from these memory and ensemble values that the history of use and culture can be deduced. Such an integrated approach avoids an ill-conceived program of requirements that risks impairing the visibility of the site's most meaningful period of use. Eliminating high-valued memorial heritage, for example by demolishing the courtroom, might give the impression—to victims, but also to perpetrator countries and perhaps also the international community on whose behalf the convictions were made—that the Dutch state does not want to guarantee the legitimacy of the Tribunal by anchoring its material record in the social memory. Therefore, the Committee recommends that no work be carried out before or during the transition phase by the owner or user, to avoid irreparable damage to important monumental, heritage, and memorial values.

Meaningful Scenarios for Embedding Memory Values

Inadvertently becoming a memorial despite being inaccessible to the general public for a long time, the ICTY courtrooms where perpetrators of the wars in the former Yugoslavia were tried—a replica was once even used in a film—still evoke deep emotions among the families of the victims and refugees inside and outside the new states in the former Yugoslavia. The same is true of the archives of the IRMCT, still held on the site as a legacy of the trials, and constituting a strong connection felt by relatives of the victims and other citizens from Bosnia and elsewhere, as an interview with the mayor and curator of the ICTY Information Center in Sarajevo (discussed above) stressed. To underestimate the emotional significance of trial records as a contribution to honoring the victims would be a grave mistake. Furthermore, as living testimony, the stories in the archives can be used to reflect on the future, "encouraging debate about what these past events mean for the generations of today and tomorrow," as has been said of the Berlin Stasi Records Archive.[9] Since the former tribunal continues to raise questions of recognition and fairness for many members of stakeholder communities, the Committee considers that it has become a Monument of Justice and needs to be treated accordingly.

In consequence, there is no doubt that the problems of legitimacy and identification raised by a possible repurposing and transition of the site of the former ICTY also apply to the Srebrenica Monument, which is currently in discussion. The Committee supports this to be located at the edge of the pond in the forecourt of Churchillplein 1. The memorial will be designed to commemorate the 1995 genocide in Srebrenica (recorded as genocide by the ICTY in 2004), and will serve as the culmination of the annual Srebrenica commemoration on 11 July that has taken place in The Hague since 1996, whose national status is also supported by the European resolution on a national commemorating the Srebrenica genocide of 2009, and the global call for July 11 as national memorial day set by the recent UN Srebrenica resolution of 2024. To prevent further architectural fragmentation and functional compartmentalization, the Committee strongly recommends an integrated approach to both projects.

At the same time, however, the Committee warns that the meaning of the Tribunal should not be reduced *only* to the Srebrenica genocide. Even though Srebrenica has been made an element of the Dutch Canon of History in the light of the "national trauma" of the failed peacekeeping mission, the Yugoslav Wars began four years before it, and ended four years after. Equally, the first UN reports on ethnic cleansing and genocide in Bosnia

were already emerging in 1992, whereas the Kosovo War ended with NATO bombings on Yugoslavia in 1999.

Whilst the visual connection is highly relevant for the placement of the Srebrenica Monument, this report advises clearly recognizable identification of the documentary and research center as part of the project to allow access to archived records that is open to research and debate on other events and potentially from different perspectives. Having a public or semi-public space for multi-perspective interpretations, created in the frontal perimeter of Churchillplein 1, would constitute an asset in reinforcing the building's memorial value. It is to be hoped that the archives in the current IRMCT building will remain in use, underpinned in Dutch heritage policy by the principle of integrated heritage management, as endorsed in this report.

The highest heritage values have been recognized for the main hall behind the entrance, formerly used as a meeting place for the media (along with the forecourt) and still used for temporary side exhibitions. An important element here is the staircase that was added for access to the courtrooms, and its UN banner "Nuremberg-The Hague." As for the first and second floors, after several visits and audiovisual assessments, the Committee assigned the highest heritage and memorial values to the two still intact courtrooms with facilities and rooms for judges, registry, prosecutors, translators, technicians, and listeners, and the routings and holding cells for the suspects. Most of these are also documented in 3D.

On the basis of its findings from several visits to other memorial museums, its site analysis of Churchillplein 1, the long-term experience of the ICTY/IRMCT Outreach Center, and the high memorial value assigned to the education programs and visitor tours at the Peace Palace in connection with the award of the European Heritage Label, the Committee recommends a separate space for a documentation, information and exhibition center, devoted to the sharing of background information, stories, and testimonies with survivors, researchers, teachers, students, and visitors. The upper floors of the building would seem ideal for such a purpose, since their monumental and memorial values are for the most part assessed as lower, and they can easily be sequestered from other parts of the building.

Another, less desirable option would be to house such a center in a side wing, or in the underground parking garage—this would be acceptable only as a temporary solution. A similar development can be traced at the Nuremberg site, where an initial temporary exhibition space set up on the forecourt in 2010 was later expanded to include the upper floors, before finally being connected to the preserved Courtroom 600 via an immersive VR visitor experience. Although the Committee considers this

a template worthy of emulation for potential use in one of the former ICTY courtrooms, it should be noted that this Nuremberg Trials time capsule was born out of necessity, because the Bavarian judicial authorities had in 1961 completely reversed the changes made to the building by the Americans, and German monumental law would not allow it being restored now to the "authentic" situation of 1946.[10] Memorium staff also point out what they see as the shortcoming of the absence of the Nuremberg Archives, entrusted to the International Court of Justice (ICJ) in The Hague in 1950.[11] They warn against such a removal of the archives from the former ICTY building, where they are currently still housed on site. In the light of this loss, the Nuremberg Memorium considers it an important compensation to share the large building complex of the former Palace of Justice with the Nuremberg Principles Academy for international criminal law. Although this may also be important for the future reuse of the former Yugoslavia tribunal – where the Association of Defence Lawyers (ADC-ICT) has also been located on Churchillplein 1 since 2002 – the committee believes that the most important lesson for The Hague is to use the unique opportunity for an integral heritage development of the ensemble as it still exists.

The Committee also took note of three initiatives for commemoration, education, and visualization in Churchillplein 1 and its surroundings. The first is an advanced museum plan for a museum of human rights, laid out in the feasibility study "NoW: Creating Peace for Tomorrow" (2016), carried out by the former Humanity House in collaboration with the UN IRMCT and the Municipality of The Hague.[12] This could be an excellent starting point for a center of information, education and debate on war justice and processing, if it takes careful account of the specific heritage and memory values, such as the courtroom and other signifiers that have been mapped and assessed in this report. Moreover, it would significantly improve the feasibility of integrating the Tribunal's archives in the interests of researchers, survivors, and survivors' relatives.

The second initiative is the "Quick Scan Churchillplein" location study by the Municipality of The Hague, supported by the Chief Government Architect and NMSG'95, the working group driving the initiative, with a view to the planned Srebrenica National Monument in the forecourt of the former Yugoslavia Tribunal. This document presents three functional scenarios, the first with an optimal interaction between the future monument and an information center in the former Tribunal building, a second, sub-optimal scenario with only an information center in the side wing of the building, and a third, minimal scenario with only a visual

relationship with the building but with no information center and with the Tribunal building repurposed independently in an unrelated way. It is noted that "the first scenario is preferable from the perspective of the monument," as it would reinforce the educational role of the monument and "the sense of place." However, as was also the case with the second scenario, the first proved "incompatible with the intended program with a heavy security profile." Still, the report does not altogether discount the best-case scenario, noting that "if programmatic requirements regarding the level of security change, a combination with the information center is conceivable."[13]

As already mentioned, the Committee sees no added value in this worst-scenario choice, determined externally on the basis of a schedule of requirements of which the Committee has not been informed and which it cannot therefore consider. Although inspired by the winning design for a large underground exhibition space beneath the square in front of the former Palace of Justice in Nuremberg, we could only recommend this as a temporary solution. In terms of memory values, on the other hand, the first, optimal scenario is considered sustainable and promising. One important consideration in this regard is the mismatch between the government's official apologies and the ongoing lack of any concrete plans and decisions. The 2023 KNAW "Contested Monuments" advisory report also noted this, as it warned that for the victim communities dealing with a heritage of genocide, "the uncertainty about whether there will be a National Srebrenica Monument may lead to a reliving of their trauma. Lack of recognition, misunderstanding, and powerlessness are then experienced again, but this time with a new 'opponent.'"[14] Moreover, given the broad international welcome for the 2024 UN General Assembly resolution calling for the annual commemoration of the Srebrenica genocide on July 11, any further postponement of the realization of the monument could only be explained as unwillingness.

The third initiative comprises a 2023 inventory proposal which the Committee received for a project, which enjoys wide support, to increase the visibility and attraction of The Hague as City of Peace and Justice by improving the quality of its spatial structure. The proposal is focused on strengthening the coherence of the present international institutions by enhancing the spatial quality of the International Zone, enlisting nature (green spaces) and the city's cultural history. It envisages a "Huygens axis" and a "Dudok axis," the latter running along the line of the former Atlantic Wall and the modernist city architect's postwar urban reconstruction plan, centered on what is now the Zorgvliet and World Forum area, as described

in the present report. It is noteworthy that this proposal was motivated by the present threats to European peace and justice, caused by "the Russian invasion of Ukraine and the Israeli-Gaza conflict"—threats which by now have mutated into scarcely imaginable violations, or even the intentional destruction, of international law. It is therefore a missed opportunity that the proposal seeks a connection between the important monuments from World War II and various museums of modern art along this route, in the form of a "Reconstruction Monument," i.e. a monument to Dutch postwar reconstruction.[15]

Even so, the Committee does endorse the general idea of this proposal, and welcomes the possibility of linking Churchillplein 1 with Scheveningen Prison, which after thirty years shares the ICTY detention center, still in use today, with Oranjehotel, the former Nazi German detention center for Dutch resistance fighters, which has been converted into a museum and memorial site, as mentioned in this report. This UN unit, like the archive, could then be seen as part of the living heritage of the Tribunal, the importance of which should not be underestimated, not least for the processing of trauma on the part of victims and other witnesses. Among them a Dutchbat captain who long suffered from his hostage taking as UN observer in Sarajevo on 26 May 1995, and remarked about his stay in The Hague for testifying against the Bosnian Serb president:

> "I remember standing outside the Scheveningen prison after testifying. I turned around and thought: Karadžić is a war criminal, and he's stuck here now, I'm free to go to the beach. That was one of the happiest moments of the last twenty years."[16]

It is therefore difficult to understand why the National Monument "Oranjehotel" (WWII memorial museum Scheveningen prison) is integrated into the proposed route of the axis of remembrance of peace and justice, while the former UN Yugoslavia tribunal and the detention center as well as the planned National Srebrenica Monument are conspicuous by their absence. Now that this report has already paid some attention to the blind spot of the genocide in Srebrenica in Dutch collective memory and school education, the committee considers the inexplicable absence of the most impactful monument to peace and justice as a major risk to achieving the set goals.

Having taken note of these initiatives, the Committee strongly advocates an integrated approach, including an appropriate future for the monumental site of the former Yugoslavia Tribunal. In this regard, the Municipality's optimal scenario for a Srebrenica National Monument would harmonize

Figure 6.3. A typical 10 m2 single cell at the ICTY detention facilities (Scheveningen, PI Haaglanden). Photo ICTY.

perfectly with the Humanity House museum concept, especially if it took account of the heritage and memory values that are safeguarded in this report. Regarding the improvement plan for the International Zone, the Committee endorses the importance of more cohesion and greening, as the present report describes in the case of the European Quarter in Brussels. It also considers the need to make the principle of peace and justice more visible in public spaces a pressing one. It notes that a monument would certainly resonate with this concept, especially if it was in Churchillplein, the main center of the current International Zone and of Dudok's reconstruction plan. Rather than a reconstruction monument, however, the Committee recommends the Tribunal building and Srebrenica memorial, at least for this area. Moreover, it is precisely Van der Steur's late modernist design that embodies both the monumental values of Dudok's spatial concept and the memorial values of the former ICTY. Together, the two layers of use of the former National Bank and the International Court of Justice show the enormous transition dynamics of the city and the site. In this context, it is interesting to notice the comment of a former ICTY staff member after finding the original design plans for Van der Steur's bank headquarters on the platform Monumentenzorgdenhaag.nl: "Fascinating to see the building's original usage and layout of working spaces, so different from ours. The rows after rows of employees squeezed into open group spaces is such a contrast to the way we developed the office space as enclosed individual offices.

The original looks like a Ryanair flight! Amazing how what was then used as the office of the president-director of the commercial company (first floor, Johan de Wittlaan side), we use as a technical workshop area for the support and running of the courtrooms."[17]

This legal monument thus marks the interconnected importance of The Hague's International Zone, literally under the banner of "Nuremberg-The Hague." It is therefore recommended that the Dutch state, as owner, adopts a proactive, sustainable approach to the development of integrated scenarios, considering the realistic expectation that the "Hague Tribunal" will transition into a legal monument to peace and justice. Its significance for citizens across Europe would be comparable to that of the Auschwitz-Birkenau Memorial and Museum, Memorium Nuremberg Trials and the Nuremberg Principles Academy.

Final Remarks: Spatial Impact and Cultural Meaning

To sum up, the largely intact original design of Van der Steur's bank headquarters building is without doubt a testament to the quality of the designer and the spirit of the postwar reconstruction period. Admittedly, this is less true of the surrounding urban biotope, in which the hand of Dudok and the former green spaces are almost effaced. Yet, even in this dissonant context, the still largely original building at Churchillplein 1 bears witness to the internationalization and densification of the area in in its significantly changed functions and environment.

After all, it was precisely the arrival of the International Criminal Tribunal for the former Yugoslavia at Churchillplein 1 in the Zorgvliet and World Forum area that accelerated the dynamics of The Hague's International Zone, and thus gave a major boost to the now global reputation of the "City of Peace and Justice." The site's urban context is characterized as dynamic, filled with striking architecture, but lacking an overall structure and meaning. However, the quality of life in the district itself did not benefit. In its many metamorphoses, the area has a conflictual history of power and dissonances, which in a certain sense is also reflected in the fences and other security requirements of the ICTY. Such obstacles, however, show something of the harsh reality behind the monumental appearance of the UN tribunal, and are therefore considered neither indifferent nor detrimental to the site, but highly valued for their symbolic function.

Yet, this report also recommends that this high-rise neighborhood be made more "people-friendly" as a matter of urgency. One strategy

could involve the proposed scenario of a meaningful integration of the Srebrenica Monument with the former Yugoslavia Tribunal, combined with an in situ memorial heritage route. Enhancing the interest, protection, and care of this unique place would bring a reflective component to this "unlivable" area, providing qualitative enrichment to the city district and enlivening it through hybrid functions of exhibition, information, archival research, visual art, and documentary center. A repurposing of Churchillplein 1 would then entail the challenge of giving the area a coherent "face" as a crucial link within The Hague's International Zone. The Tribunal building could play an important public role in defining identity here. The Committee therefore wishes to emphasize that safeguarding memorial values does not mean entirely "freezing" the building-as indicated in the mapping in Chapter five. On the contrary, a high-quality redevelopment that respects and possibly highlights the significance of the site through innovative design could even increase its value as a legal monument or Monument of Justice. The ICTY could then become an exemplary testing ground for a broad-based, future-oriented heritage policy.

At the same time, this place has firmly anchored itself in the collective memory of the Netherlands, the Balkans, Europe, and the world. Its complex relation to the national and international community—by no means free from tension—also brings the added value of stakeholder participation, agonistic dialogue, emotion networking, and inclusive digital platforming as supportive strategies for sustainable heritage management for dissonant heritage.[18] Such a (re)development towards a full, or hybrid, memorial site could also benefit from a number of instances of best practice discussed above, such as the recently reopened Memorium Nuremberg Trials, and – on a different spatial level – the proposed redevelopment and greening of the European Quarter of the de facto EU capital of Brussels. Both suggest ways of radically redesigning and improving the experiential quality of the currently diffident relationship between the building and its surroundings, which, from this alternative "gateway" perspective, could also benefit from existing municipal plans for a "greening" Dune Park scenario. It would give new meaning to the area and the building, for the local population and for the city, but also for tourists and visitors. It would show and represent a transnational history that has been intertwined for more than thirty years, with the tragedies, courage, and failures of the Yugoslav Wars and the trials of the accused, particularly relating to the genocide in Srebrenica. This could all be contained in this global site and its surroundings, as a dynamic memorial heritagescape for current and future generations, for

whom the inextricable link between "The Hague" and "Srebrenica" would henceforth carry the same weight and significance as "Nuremberg" and the Nazi Holocaust.

Finally, it should be added that the legacy of the former ICTY, and the role of The Hague in dealing with international conflicts and wars and the development of international criminal law, will be continued, *inter alia*, by a successor operating outside the United Nations, namely the International Criminal Court (ICC), which is designed as a permanent court modeled on the *ad hoc* ICTY. In addition to the important role of the Residual Mechanism (IRMCT) in the preservation of archives and programs of legal support, the ICC as a new mechanism for peace and international justice is already involved in new conflicts and wars on Europe's borders, such as in Ukraine and Palestine. However, there is no national museum devoted to this long-term and ongoing Dutch contribution to the development of international criminal law, the end of the Yugoslav Wars, and the establishment of the European Union as a community of values. Protecting the heritage and commemorative values of the UN tribunal on the ground is therefore a unique challenge. Finally, then, the Committee recommends that a repurposing of the building make sufficient space for the education and exhibition to younger generations and visitors of this *in situ* monumental legacy—a legacy in which the principle of peace through justice turned the tables on a long history of horror by means of 4,700 testimonies, all of them archived in the Tribunal. By doing so, it can help survivors and witnesses deal with a traumatic past, as well as arming all citizens, by truth-finding, reflection, and debate, with an understanding of the crucial role of human rights and international criminal law in supporting aspirations for a just society. Such a Monument of Justice will be of equal importance to the future of the City of Peace and Justice as to the aims and values of the United Nations and the European Union.

Notes

1. Anonymized interviewee, historian and a genocide scholar, in the context of this UvA research report, May 2024.
2. Julia Noordegraaf, *Strategies of Display. Museum Presentation in Nineteenth and Twentieth-Century Visual* Culture (Rotterdam: Boymans van Beuningen-NAi 10) 2012,150.
3. Koninklijke Nederlandse Akademie van Wetenschappen*, Wankele sokkels. Omstreden monumenten in de openbare ruimte* (Adviesrapport Commis-

sie Maria Grever, KNAW: Amsterdam 2023). URL: https://www.knaw.nl/publicaties/wankele-sokkels-omstreden-monumenten-de-openbare-ruimte (Accessed September 6, 2024).

4. Compare the following policy documents: *Betwist erfgoed. Nieuw beleid voor een meerstemmige samenleving* (UNESCO: The Hague, 2017), URL: https://www.unesco.nl/sites/default/files/2019-02/betwist_erfgoed.pdf (Accessed September 6, 2024) and *Omgang met beladen erfgoed in de openbare ruimte. Samenvatting van een in 2021 uitgevoerde verkenning* (Mirjam de Blot, RCE: Amersfoort 2022), URL: https://www.cultureelerfgoed.nl/publicaties/publicaties/2022/01/01/omgang-met-beladen-erfgoed-in-de-openbare-ruimte (Accessed September 6, 2024).
5. "The Nobel Peace Prize 2012. Press release," *The* Nobel Prize, URL: https://www.nobelprize.org/prizes/peace/2012/press-release/ (Accessed September 6, 2024).
6. Cf. Rob van der Laarse, "Europe's Peat Fire: Intangible Heritage and the Crusade for Identity," in Lähdesmäki et al., *Dissonant Heritages and Memories*, 79-136.
7. Louise Arbour, ICTY Prosecutor, quoted in Nuremberg Trial Archives (The Hague: International Court of Justice, 2nd ed. 2018), 19, and see also "Taube Archive of the International Military Tribunal (IMT) at Nuremberg 1945-46", *Virtual Tribunals. International criminal tribunal records* (*1945-present*), Stanford University Libraries, URL: https://exhibits.stanford.edu/virtual-tribunals/feature/taube-archive-of-the-international-military-tribunal-imt-at-nuremberg-1945-46.
8. Keynote lecture Chief Government Architect (*rijksbouwmeester*) on repurposing conflict heritage (*beladen erfgoed*), The Hague, November 7, 2024: "Francisco Veenstra," *National Monuments Congress 2024*, URL: https://www.monumentencongres.nl/programma-overzicht/francesco-veenstra/ (Accessed October 20, 2024).
9. Roland Jahn, "Understanding Dictatorship, Shaping Democracy," In *State Security in the Dictatorship. Catalogue to the Permanent Exhibition* (Berlin: Stasimuseum 2021), 6.
10. *Memorium Nuremberg Trials. The Exhibition*, eds. Astrid Betz, Alexander Schmidt, Hans-Christian Täubrich (Nürnberg: Museen der Stadt Nürnberg, 2023), 138-41.
11. "Archives of the Nuremberg trials transferred to the Registry of the Court at The Hague for custody (doc nr. 11917, 3-10- 1950)," *International Court of Justice*, URL: https://www.icj-cij.org/node/100040
12. *NoW. Creating Peace for Tomorrow.* Rapportage Haalbaarheidsonderzoek museumconcept "Vrede & Recht," Concept vs.1.0. The Hague: Humanity House, 17 May 2016, attachments: SWOT analysis, Feasibility research, Program study architects, Estimate of investment & exploitation costs, Fundraising strategy, Social & economic impact. The contract parties involved have not been able to provide us with any information about why nothing came out the positively received plans that to their knowledge were never formally withdrawn.

13. *Quick Scan Churchillplein. Nationaal Monument Srebrenica Genocide '95*, Locatieonderzoek Dienst Stedelijke Ontwikkeling, versie 2.1 (Den Haag 2022). 30-3, 40, URL: https://nmsg95.nl/wp-content/uploads/2024/10/LOCATIEONDERZOEK.pdf , and compare "National Monument Srebrenica Genocide," URL: https://nmsg95.nl/?page_id=20316&lang=en.
14. *Wankele sokkels*. KNAW Advies, 2023, 138-9.
15. Willem van der Ham, "Den Haag als stad van Vrede en Recht. Voorstel om de zichtbaarheid te vergroten" The Hague: Stichting Toen, December 20, 2023 (not published).
16. Former Dutchbat captain and UN observer Mark Helgers testified several times against Karadžić in 2011-2012 and 1995 (like also against Mladic in 1995), and in doing so appeared "to bring closure to his years of headaches and insomnia, which largely disappeared after the testimonies." Interview by Anna ter Rele, "Gegijzeld in Bosnië, maar geen erkenning," *Trouw*, December 14, 2022. *The Prosecutor v. Radovan Karadzic*, IT-95-5/18-T, Trial Chamber, 24 March 2016, available at:: http://www.icty.org/x/cases/karadzic/tjug/en/160324_judgement.pdf .
17. Email response to our online interview with IRMCT Chief of Administration David Falces (ICTY employee since 1994), September 17, 2024, and cf. "Eerste Nederlandse—Nieuwe Eerste Nederlandsche te Den Haag," *Bouwkundig Weekblad*, 74 (1956) 44, 473-479, and "Beëindiging van een kantoorgebouw te 's-Gravenhage," *Bouw* 40(1985)17, 24-25.
18. Cf. Elazar Barkan, *Constantin Goschler, James Waller, Historical Dialogue and the Prevention of Mass Atrocities* (London: Routledge, 2020); Jasmijn Rana, M. Willemsen, and H.C. Dibbets, "Moved by tears of others: emotion networking in the heritage sphere," *International Journal of Heritage Studies*, 23 (2017) 10, 977-968, URL: https://www.tandfonline.com/doi/epdf/10.1080/13527258.2017.1362581?needAccess=true.

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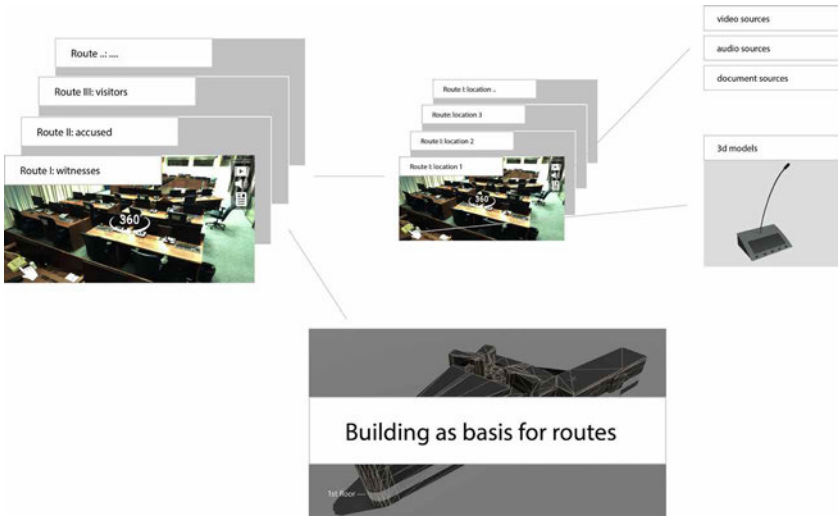
Appendix I: Design suggestion for 3/4D visualisation

This is a design suggestion of an app in which multiple storylines about the ICTY are integrated with 360 views of the building, connecting place to narrative.

Created by Tijm Lanjouw/Jitte Waagen/4D Research Lab

https://xd.adobe.com/view/a12958b7-cc3b-46b9-9ba0-43de0847a3bb-f47a/?fullscreen



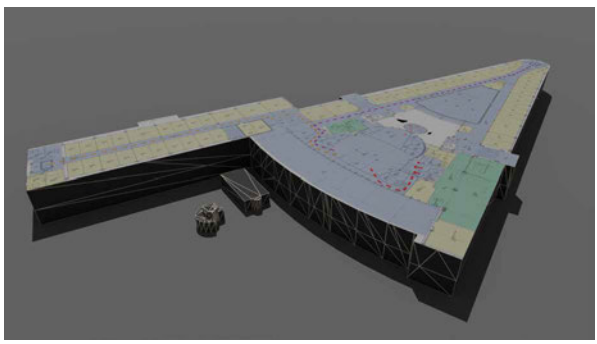


Figure A1. Design suggestion for 3/4D visualisation. © UvA 4D Lab.

Appendix II: Instellingsbesluit UvA-commissie Het Joegoslaviëtribunaal als herinneringsplaats. Onderzoek maatschappelijk-historische importantie Churchillplein 1

Opdrachtgever
Rijksvastgoedbedrijf (RVB) van het Ministerie van Binnenlandse Zaken en Koninkrijksrelatie.

Projectmanager:
Xxxxxxxxxxx

Adviseurs:
xxxxxxxx
xxxxxxxxx
xxxxxxxxx
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Opdracht
Het beantwoorden van de vraag: op welke wijze kan de cultuurhistorische en herinneringswaarden van het Joegoslavië tribunaal (ICTY) geborgd worden bij herbestemming van het gebouw Churchillplein 1.
De voorzitters van de onderzoekscommissie zijn verantwoordelijk voor het organiseren van de bijeenkomsten van de onderzoekscommissie, het aanstellen van een secretaris en een rapporteur die samen met de voorzitters de verslaglegging en de onderzoeksrapportage verzorgt.

Opdracht aan
Universiteit van Amsterdam, faculteit Geesteswetenschappen (FGW)

Leden van de onderzoekscommissie:
Prof. Charles Jeurgens (UvA, Archiefwetenschap), projectleider / co-voorzitter
Prof. Rob van der Laarse (UvA / VU Heritage and Memory of War and Conflict), voorzitter

Fredrik Ringholm, MA, project secretaris
Dr. ir. Sabina Tanović (TU Delft, Designing Memory), project rapporteur
Prof. Nanci Adler (NIOD / UvA, Memory and Transitional Justice)
Em. prof. Harmen van der Wilt (UvA, Internationaal Strafrecht)
Petar Finci (PhD st., UvA MA / researcher ICRC, and formerly ICTY film outreach)

Externe adviseurs:
Csaba Szilágyi (PhD st. / Chief Archivist CEU / Blinken OSA)
Dr. Jitte Waagen (UvA, coördinator 4DR Lab)

Doel
Met het oog op de herbestemming van het huidige gebouw van het Joegoslavië Tribunaal, Churchillplein 1 (CP1), heeft een bouwhistorische waardestelling door Crimson Architecten plaatsgevonden. Daarbij is ook op de nader te bepalen bijzondere waarden van de tribunaal-functie gewezen (zoals ook in 2009 aangegeven bij de aanwijzing als rijksmonument). Het gebruik van het pand als VN-straftribunaal en de betekenis van de Srebrenica genocide (1995) voor de internationale rechtsorde en de Europese humanitaire waarden is weliswaar in kaart gebracht, maar niet vanuit een bredere culturele en politieke context vertaald naar een immateriële waarde stelling.

De status van het monumentale kantoorgebouw met vijverpartij is niet alleen gelegen in het nationaal architectonische en cultuurhistorische belang van de markante stedenbouwkundige markering en het rijke materiaalgebruik, kortom in de (hoge) materiële kwaliteit van het ontwerp van Van der Steur (jaren '50), maar uitdrukkelijk ook in de (hoge) immateriële, cultuurhistorische betekenis voor de Nederlandse en internationale herinneringscultuur (jaren '90), te weten de latere toevoegingen /wijzigingen die door het Joegoslavië Tribunaal zijn aangebracht die door Crimson als indifferent (zonder bouwkundige waarde) zijn gewaardeerd.

Daarnaast speelt echter een nieuw legitimeringsvraagstuk, aangezien de internationale betekenis en uitstraling van het VN-straftribunaal zijn schaduw vooruit werpt tot de voorbereiding van een Oekraïnetribunaal in Den Haag waartoe de EU naar aanleiding van de omwenteling van de internationale veiligheidsorde met de Russische inval van 24 februari 2022 heeft besloten.

Toelichting
Het door Van der Steur ontworpen Aegongebouw (1951-1953) heeft in 1994 zijn functie als bankgebouw verloren toen het door de VN in gebruik werd genomen als International Criminal Tribunal for the former Yugoslavia

(ICTY). Het Joegoslaviëtribunaal werd daarmee de directe opvolger van het Neurenberg Tribunaal van 1945-1946; een relatie die door een van zijn aanklagers in 1995 als volgt werd verwoord: "Collectively, we are linked to Nuremberg. We mention its name every single day." (Nuremberg Trial Archives, The Hague: ICJ, 2018 (2nd ed.) 19)

In 2010 is het ICTY samen met het aanvankelijk in Tanzania gevestigde Rwanda-tribunaal (ICTR) opgegaan in het Internationaal Restmechanisme voor straftribunalen (IRMCT) dat was bedoeld om tot 2015 de nog lopende rechtszaken af te ronden. Inmiddels (2023) zijn alle lopende rechtszaken afgerond.

Het IRMCT heeft naast een rechtsprekende functie een omvangrijke archiverings- (en digitaliserings) functie van het bewijsmateriaal verkregen. Deze zal zich nog over een lange periode uitstrekken en belangrijke vragen over eigendom en ontsluiting oproepen. Ter vergelijking kan opnieuw worden gewezen op de archieven van het Neurenberg-tribunaal (IMT) die zich sinds 1950 in het Internationaal Hof van Justitie (ICJ) in Den Haag bevinden en waarvan nog in 2018 tot een volledige (digitale) ontsluiting is besloten.

De dynamische dimensie van het gebruik van het VN-straftribunaal over de afgelopen drie decennia is nog niet goed in beeld gebracht. Zo is weinig bekend over de sobere functionaliteit van de opeenvolgende verbouwingen, bedoeld om verdachten en getuigen via gescheiden routes en ophoudruimten van de zijingang naar de rechtszalen te leiden, over de huisvesting van de honderden internationale rechters, aanklagers, advocaten, vertalers, en bewakers, en de ontvangst van journalisten, familieleden en overige bezoekers.

De Haagse 'biotoop' van het Tribunaal was overigens groter dan enkel het gerechtshof en strekte zich, bijvoorbeeld, eveneens uit tot de (nog steeds gebruikte) speciale VN-afdeling van de strafgevangenis Scheveningen waarin van oorlogsmisdaden verdachten geïnterneerd werden, zoals de Servische president Milošević die in 2006 in zijn cel overleed. Ook zitten onder meer Karadzic en Mladic nog altijd (levenslang) vast. Het Tribunaal heeft ook hierdoor onder de bevolkingsgroepen van voormalig Joegoslavië een emotioneel beladen betekenis gekregen die uitstijgt boven de oorspronkelijke architectonische of cultuurhistorische waarde van het gebouw.

Bij elke belangrijke uitspraak van het Joegoslaviëtribunaal was de monumentale voorgevel van Churchillplein 1 nadrukkelijk in beeld bij de media. Het gegeven dat hier een internationaal straftribunaal (als rechtstreekse opvolger van het Neurenberg- en Tokyo-tribunaal) namens de VN recht heeft gesproken over honderden oorlogsmisdadigers, en de massamoord van Srebrenica in 2007 als genocide bestempelde, heeft dit gebouw een wereldwijde iconische status gegeven.

Naast mondiaal beeldmerk van *transitional justice* markeert het Joegoslaviëtribunaal echter eveneens de nationale omgang met de falende internationale vredespolitiek op de Balkan en de omstreden Nederlandse VN betrokkenheid bij de genocide van Srebrenica (1995). Het kritisch oordeel over de rol van Dutchbat in het door het NIOD geschreven Srebrenica-rapport (2002) is overgenomen door het kabinet Kok II dat hierop zijn ontslag indiende. Nederland heeft daarmee een eigen verantwoordelijkheid genomen.

Mede vanwege het Genocide Trial Archive (2014) in het met Nederlandse steun gestichte Srebrenica Memorial Center (2003) in de voormalige Batterijenfabriek en Dutchbat compound van UNPROFOR in Potočari, is ook in Bosnië-Herzegovina de betekenis van het voormalig Joegoslavië-tribunaal (mede als herinneringsarchief) steeds belangrijker geworden.

Dit geldt evenzeer voor Den Haag zelf vanwege het sinds 2020 door de gemeente ondersteunde monument van het comité Nationale Herdenking Srebrenica Genocide.

Door de vestiging in Den Haag als centrum voor internationaal recht, belichaamt het mede op de Haagse Conventie van 1907 en het Internationaal Hof van Justitie gevestigde VN Tribunaal de idee van de Europese waardenunie, welke nog in 2012 is bekroond met de toekenning van de Nobelprijs van de Vrede aan de Europese Unie.

Mede als uitvloeisel van het Joegoslaviëtribunaal zetelt sinds 2002 in Den Haag eveneens het Internationaal Strafhof (ICC) en sinds 2016 het Kosovotribunaal (KSC).

Momenteel doet zich een nieuwe situatie voor met de onverwachte bedreiging van de Europese veiligheidsorde na 22 februari 2022. Op grond van een besluit van de Europese Commissie ruimte zal Den Haag eveneens ruimte moeten bieden aan een Internationaal Centrum voor de vervolging van de misdaad van agressie ter voorbereiding van de berechting van de Russische leiders van de invasie als opmaat tot een eventueel Oekraïnetribunaal.

Op grond hiervan mag worden aangenomen dat het niet onder ogen zien van de betekenis van het gebouw als zetel van het VN-straftribunaal risico's met zich meebrengt zowel voor de continuering van de reputatie van Den Haag als internationale stad van recht en vrede, als voor die van de Nederlandse Staat als bewaker van de internationale rechtsorde.

Vraagstelling

Met het gebruik van CP1 door ICTY en IRMCT is als het ware aan de culturele biografie van het gebouw een belangrijke betekenislaag toegevoegd. Ten behoeve van de als tijdelijk bedoelde functie van tribunaal zijn verbouwingen

uitgevoerd die geen monumentale en nauwelijks architectonische waarde hebben, maar in het kader van de legitimering van het internationaal tribunaal cruciaal zijn.

Een herstel van materiële authenticiteit, die met de verwijdering van deze reversibele laag Van der Steurs ontwerp na 30 jaar weer puntgaaf tevoorschijn roept, zou voorbij kunnen gaan aan de niet minder belangrijke immateriële identiteit.

Het elimineren van deze verbouwingen, bijvoorbeeld door het amoveren van de rechtszaal, zou voor slachtoffers, maar ook voor dader-landen en wellicht ook de internationale gemeenschap namens wie de veroordelingen tot stand zijn gekomen, de indruk kunnen wekken dat het RVB (namens de Nederlandse staat) de legitimiteit van het tribunaal niet wil borgen door de materiële neerslag ervan te verankeren in het maatschappelijk geheugen.

Het RVB onderschrijft de maatschappelijke betekenis van het Joegoslaviëtribunaal. Alleen is er ten behoeve van het project dat hiertoe momenteel wordt gedefinieerd nog onvoldoende zicht op hoe deze zich moet uiten in een eventueel nieuwe toekomst voor het gebouw.

De vraag die voorligt is dan: *hoe de herinneringswaarden van het Joegoslaviëtribunaal het best kunnen worden beschermd, en welke gevolgen dit heeft voor toekomstige herbestemming en huisvestingsmogelijkheden.*

Om hierin zo spoedig mogelijk inzicht te krijgen is voorgesteld om dit door een ter zake doende instantie wetenschappelijk te laten onderzoeken.

Onderzoekscommissie

Omdat dit vraagstuk een politieke lading kan krijgen, heeft de RVB besloten het aan de orde te laten stellen met behulp van een onafhankelijke, externe, ter zake kundige adviseur cq. "Onderzoekscommissie (Voormalig) Joegoslavië Tribunaal".

Als externe academische instantie is hiertoe de Universiteit van Amsterdam (UvA) verzocht om ten behoeve van de borging van de (inter)nationale herinneringswaarden een rapportage over de maatschappelijke historische waardestelling van het Joegoslavië Tribunaal te schrijven.

In samenwerking met de eigen (RVB) adviseurs en wellicht deelnemers vanuit overige ministeries (Binnenlandse Zaken, Buitenlandse Zaken, Justitie en Veiligheid) en (externe) experts het Atelier Rijksbouwmeester, de Rijksdienst voor Cultureel Erfgoed, de gemeente Den Haag en de huidige gebruiker (IRMCT) heeft deze wetenschappelijke commissie de opdracht aanvaard om binnen een hieronder aan te geven tijdspanne een Engelstalig onderzoeksrapport te schrijven.

De onderzoekscommissie onder gedeeld voorzitterschap van de hoogleraren Van der Laarse (UvA Erfgoed) en Jeurgens (UvA Archiefwetenschap) zal zich aan de hand van een historische en site analyse, interviews en brainstormsessie buigen over de opdracht hoe de cultuurhistorische en herinneringswaarden van het ICTY geborgd kunnen worden bij een herbestemming van het gebouw en hier suggesties toe aanreiken.

Hiertoe zal onder meer (literatuur- en fieldwork) studie worden gemaakt van *best practices* van vergelijkbare herinneringsplaatsen (zoals de *courtroom* van Neurenberg en Sarajevo), en een uitwerking in verschillende scenario's ten behoeve de opdrachtvraag te beantwoorden.

Naast het ontwikkelen van een aantal functionele scenario's zullen ook een aantal scenario's worden opgesteld die tegemoetkomen aan de opgeworpen legitimiteits- en identificeringsproblemen.

Zo kan worden gedacht aan de rechtszaal en een ophoudcel (al dan niet in hun huidige verschijningsvorm), en aan een historische, educatieve en erfgoeddocumentatie, foto/filmproductie, digitale 3/4D visualisering en VR/AR reconstructie (bijvoorbeeld ten behoeve van een in/ex situ bezoekerscentrum of tentoonstellingsruimte).

Resultaat
Een Engelstalig onderzoeksrapport conform de bepalingen van de AV Onderzoekssamenwerking UvA (Annex C). Het intellectueel eigendom berust bij de UvA.

Werkzaamheden
Stap 1: oriëntatie,

- Kick off met voorzitters UvA en RVB (lijnmanager xxxxxxxx, projectmanager en adviseurs). Doel: aanpak, betrokkenen, proces en invulling opdracht verhelderen, het belang van vertrouwelijkheid benadrukken en afspraken maken over opstellen en Q&A over het onderzoek.
- Kick off met voorzitters UvA, RVB en externe experts RCE en gemeente Den Haag.
- Kick off onderzoekscommissie
- Voeren van gesprekken door onderzoekscommissie en gebruiker IRMCT
- bezoek aan CP1 en eventuele andere locatie(s) met (deel) van de onderzoekscommissie

Stap 2: vergelijkend literatuuronderzoek (musealisering en immateriële betekenis Internationaal recht, mede in het perspectief van 24 febr. 2022)

Stap 3
– fieldtrips (Neurenberg, Sarajevo e.a.)
– procesmatige update en afstemming met RVB en mogelijk externe experts zoals in deze offerte genoemd.

Stap 4: workshop Den Haag
(met de onderzoekscommissie en belanghebbenden bij voorkeur aansluitend aan bezoek CP1)
– herinneringswaarden en waarde stelling
– functionele en politieke scenario's
– procesmatige update en afstemming met RVB en mogelijk externe experts zoals in deze offerte genoemd.

Stap 5: conceptrapport—formuleren concept rapportage door voorzitter(s) en rapporteur van de onderzoekscommissie

Stap 6: reviews
– beoordeling conceptrapport door overige leden projectgroep RVB
– commentaar van te informeren externe experts (juridische expertise, RCE, gemeente Den Haag etc.)

Stap 7: afronden eindrapportage door voorzitters en rapporteur met consultatie van de onderzoekscommissie

Stap 8 Engelstalig onderzoeksrapport
coördinatie, editing en communicatie door voorzitters, secretaris, en rapporteur (Engelstalige eindredactie, publiciteit)

Opdrachtnemer
Onderzoek-fgw-uva, 5 december 2023

xxxxx
xxxx Institute for Humanities Research

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After Nuremberg, there is probably no other place where the future of Europe has been so definitively tested and safeguarded as in The Hague. The iconic building of the former International Criminal Tribunal for the former Yugoslavia (ICTY) has become a global symbol of international law and transitional justice since its establishment in 1993. As the direct successor to the International Military Tribunal of Nuremberg in 1945-1946, this UN tribunal concluded 25 years of unprecedented success in investigating and trying all major war crimes suspects from the wars in the former Yugoslavia during the 1990s. It also made history through the first application of the UN Genocide Convention in the trial of the 1995 Srebrenica massacre. This report addresses the question of how the significance of the International Criminal Tribunal for the former Yugoslavia, as a heritage and memorial site for its many (inter)national stakeholders, can be preserved following a withdrawal of the UN and a possible redevelopment of the site.

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