

Life beyond the Crown Court grind

International tribunals pose groundbreaking challenges. Gillian Higgins meets them

DISCONTENT at the English Criminal Bar is rife. Recent proposals to cut barristers' fees for criminal legal aid cases have led many practitioners to rethink the way they work and the sustainability of life at the Bar. This climate of malaise tends to overshadow the wealth of opportunities open to UK lawyers in other rapidly developing areas of the law. But there is life beyond the crown courts.

Over the past ten years international criminal law has seen huge changes both in terms of the law and its practice. The UN ad hoc tribunals in the Netherlands and Tanzania established for the prosecution of war crimes, crimes against humanity and genocide arising from the recent conflicts in the Balkan wars and Rwanda have provided many lawyers around the world with opportunities to practise law in a challenging and jurisprudentially ground-breaking forum. Such opportunities will increase with the work of the International Criminal Court in The Hague.

The practice of international criminal law requires lawyers to step beyond the confines of the domestic courts, circuits and chambers. They must be prepared to engage actively in investigative work overseas, which may also include the proofing of potential witnesses from the region, politicians from other states and the search for evidence in uncooperative regimes. New jurisprudence has to be learnt and new skills acquired.

The work can be all-consuming and involve personal sacrifice. But the rewards are unrivalled. The experience of working abroad in different environments provides a rewarding insight into other legal systems and how these may meld to provide frameworks for future conflict resolution.

In 1997, as a pupil barrister, I was inspired by a talk given by Steven Kay, QC, and Sylvia de Bertodano on their work as defence lawyers in the first trial before the International Criminal Tribunal for the former Yugoslavia. After finishing a commercial pupillage, I worked as a pupil barrister with Kay and de Bertodano, assisting them on a case before the International Criminal Tribunal for Rwanda, defending a client charged with genocide. My pupillage experience ranged from photocopying to proofing defence witnesses in Belgium and Switzerland, to living and working in East Africa — a far cry from Waltham Forest Magistrates' Court.

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My interest over the years intensified in this area of law and, in 2001, I returned to work with Kay in The Hague as a legal consultant to the amici curiae on the trial of the former president Slobodan Milosevic. When resources were cut from the team so that I could not be engaged full-time, I divided my work between the UK and The Hague. When the going started to get tough for Kay during the drafting of the motion to acquit at the end of the prosecution case, I decided to work pro bono for five months. Later that year, I was assigned as co-counsel for the defence phase of the case — currently I am Assigned Counsel.

Working abroad in Africa and The Hague does not combine easily with domestic practice in the UK. Significant periods of pro bono work have been a reality. But such criteria are not the way to judge the experience. The work has been fascinating and addictive. In recent weeks, I have been involved in analysing the public statements of leading Western politicians concerning the Nato bombing of Yugoslavia in 1999. Opportunities for others to get involved are out there — you just have to be prepared to work differently and learn new skills.

My clerks in chambers periodically ask: “When are you coming back, Miss?” I’m no longer sure how to respond.

The author is a founding member of the International Criminal Law Bureau and is currently working as defence counsel at the International Criminal Tribunal for the Former Yugoslavia in The Prosecutor v. Ivan Cermak et al.

