

The Special Court for Kosovo: Enhancing societal impact through improved outreach

Policy note

Key points

- Effective outreach is crucial to minimize risks attending establishment of the Special Court, such as harm to relations between Kosovo's main communities, and to ensure that Court proceedings translate into positive societal impact
- Outreach should be an integral part of the Court's mandate, with sufficient allocated funding and capacity; it should be neutral, independent, and timely, starting early and with a clear exit strategy
- Outreach activities should establish two-way communication between the Court and affected communities, providing information and promoting understanding and acceptance
- Partnership with civil society is a critical success factor

Background

In the wake of mass atrocities, international criminal trials can provide a measure of justice for victims and a direct form of accountability for perpetrators. More broadly, international criminal justice mechanisms can contribute to deterring mass violence, ending impunity, fostering meaningful dialogue about the historical record, and (at least indirectly) creating an enabling environment for reconciliation among the divided communities. However, these broader effects, understood here as positive **societal impact**, are often limited, and largely dependent on the perceived legitimacy of international criminal justice in affected communities.

In research often conducted in conjunction with international tribunals themselves, Impunity Watch has produced a compelling evidence base on the factors associated with positive societal impact. Its analysis demonstrates that public perceptions of international and hybrid courts cannot be separated from the politics of their establishment. Especially when the work of such international tribunals is perceived as selective or partial a crisis of public perceptions can occur, and result in negative societal impacts like harm to inter-ethnic relations and wider processes of transitional justice.

In the case of the Special Court for Kosovo, a hybrid international court established within Kosovo's judicial system to adjudicate war crimes cases against individuals associated with the Kosovo Liberation Army (KLA), the risk of negative societal impact is significant. The **political context** of the Special Court's establishment has been highly contentious, and the fact that there has been virtually no information disseminated to the general population about the purpose, mandate or operations of the Court is a major driver of public anxiety and discontent. This policy note, produced by [Impunity Watch](#) and [PAX](#), lays out

evidence-based recommendations for a programme of **improved outreach** to address the need for public information and engagement¹.

Effective outreach is crucial to minimize risks attending establishment of the Special Court, and to ensure that Court proceedings translate into positive societal impact. No public policy issue in Kosovo is more emotive, divisive, and misunderstood than the Special Court. Senior leaders in the Government of Kosovo presented the Special Court to citizens as **an obligation imposed by the country's allies**, rather than a necessary instrument of justice in its own right. What public debate that has occurred has been based on rumours and leaks, with the lack of transparency and democratic consultation strengthening hardline perspectives and positions. It has been nearly impossible for civil society to issue informed interventions or constructively influence the process.

Moreover, Kosovo's **Albanian and Serbian communities are divided on the meaning and value of the Court**. For many in the ethnic Albanian community, the Court's jurisdiction (covering only those crimes committed by members of the KLA during and after the 1998-99 war) represents an attack on what they view as the heroic legacy of the KLA's insurgency against oppressive Serbian rule; its focus on KLA crimes, when many of Serbia's crimes have been inadequately addressed, is regarded as selective and partial. Conversely, for those in the ethnic Serbian community, the Special Court represents an opportunity to see justice done in long-neglected war crimes cases in which the victims were mainly Serbs. There is thus a risk that, if the Court's work is effective, ethnic Albanian perceptions of anti-KLA bias in the pursuit of war crimes cases will increase; if the Court's work is ineffective, the disillusionment of ethnic Serbs with Kosovo's institutions will increase. Both outcomes would negatively impact relations between communities and inhibit reconciliation.

Recommendations

- The Special Court, in conjunction with the Government of Kosovo, the EU and Member States, must inform Kosovo's citizens about the Court's purpose and operations. The **EU and Member States** should provide support that ensures public information and outreach efforts are adequately funded and free from the political interference of national and international actors. The public information and outreach efforts must address broader challenges around dealing with
- Outreach should be an **integral part of the Court's mandate**, included in the Court's founding statute and rules of procedure (as is the case, for example, with the International Criminal Court).
- Outreach activities should be **neutral, independent, timely, relevant, meaningful, and tailored** to specific segments of the population. They must start with a baseline survey and regular follow-up surveys, in order to consistently revise the framing of key messages to address perceptions; and a mapping of affected communities and identification of potential partners.
- Outreach activities should have sufficient **funding and capacity**. Activities should be funded through the Court's regular budget, and outreach work should be supported by the recruitment of qualified staff at relevant levels of seniority. It is critical to have an adequate complement of local staff, to enable outreach to engage with different constituencies in Kosovo.

¹ Impunity Watch and PAX will provide a more detailed analysis of the Special Court, and recommendations for complementary local, national and regional transitional justice initiatives, in an expanded Policy Brief to be released in late 2015.

- Outreach activities should **start early** and keep up even during periods of low judicial activity, to prevent a vacuum from being occupied by destructive rumours.
- A **coordinated outreach platform** should combine public information activities with specific outreach initiatives targeting key constituencies, such as victims and survivors, young people, minority communities, and war veterans. Outreach activities could range from interactive radio programmes to town hall meetings to moot courts. The example of the Special Court in Sierra Leone is especially relevant, with its outreach focus on promoting diverse human rights issues.
- Outreach should go beyond raising awareness of the Court’s operations among passive audiences, establishing **sustainable two-way communication** between the Court and affected communities, providing information, promoting understanding and acceptance, and facilitating access to judicial proceedings (as in ICC). even handed understanding and approach beyond the work of this court
- Outreach should strive to **manage expectations** of victims and affected communities, overcome hostile propaganda, and enlist the support of champions within government and key constituencies (veteran’s organizations, victim’s associations, etc.).
- Outreach actions should frame the Court’s work in a broader context of **dealing with the past**, and define the potential contributions of the Court to that process. Explicit efforts should be made to address the potential negative effects of the selective and partial prosecutorial strategy of the Court, to reflect a more even-handed approach to dealing with war crimes committed in Kosovo.
- **Partnership with civil society** is a critical success factor. Civil society organizations (CSOs) can act as “gate-openers” on the ground to gain access to local leaders and opinion-shapers, and serve as a vital component of an exit strategy that keeps the work of outreach going after the termination of Court proceedings.
- **Victim participation** must be a central objective of messaging and engagement.
- Outreach must incorporate an **exit strategy** from the outset. As the Court winds down its operations, outreach activities might be left to competent CSOs, the local legal community, and local media, with adequate funding and capacity.

This policy brief adapts Impunity Watch Policy Brief “Enhancing the Societal Impact of International Criminal Tribunals” (2015), by N. Mue, available [here](#).

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