Antonio ‘Nino’ Cassese  
(1937-2011)

“Walking the road he paved”

You are cordially invited to join The Hague judicial community in paying tribute to Judge Antonio Cassese. This celebration of his life’s work will include presentations covering five of the areas of international law that were the focus of his renowned passion and insight:

International human rights law
International criminal law
International humanitarian law
Terrorism
Self-determination

The tribute will take place at the Hague Academy of International Law 
Carnegieplein 2, The Hague 
from 17.30-20.00 on Wednesday, 16 November 2011

A special exhibit will also honour Judge Cassese’s life and achievements
The Special Court is a remarkable achievement. Its success is a tribute to the men and women who worked tirelessly to establish a court to try those persons alleged to bear the greatest responsibility for the crimes committed during Sierra Leone’s civil war. Only a short time after the agreement creating the Court was signed, staff were already in the country starting investigations and beginning to set up the institution. Notwithstanding tremendous hurdles, the first years of the Court were successful in many respects.

To date, the jurisprudence of the Special Court has grappled with a number of novel issues in international criminal law. It is to be expected that the judgments, in addition to establishing the guilt or innocence of the accused persons, will address important factual issues relevant to establishing an historical record of the events; they will also deal with legal issues of worldwide interest.

In addition to acting as an international court of law, it has operated as a transitional justice mechanism, interacting with broad sections of civil society as well as the justice sector of Sierra Leone. The Court has incorporated many local staff members, thereby contributing to enhancing the proximity of this new international judicial mechanism to the local population.
The Commission strongly recommends that the Security Council immediately refer the situation of Darfur to the International Criminal Court, pursuant to article 13(b) of the ICC Statute. As repeatedly stated by the Security Council, the situation constitutes a threat to international peace and security. Moreover, as the Commission has confirmed, serious violations of international human rights law and humanitarian law by all parties are continuing. The prosecution by the ICC of persons allegedly responsible for the most serious crimes in Darfur would contribute to the restoration of peace in the region.

The Commission also recommends a number of measures to be taken by other bodies to help break the cycle of impunity. These include the exercise of universal jurisdiction by other States, re-establishment by the Commission on Human Rights of the mandate of the Special Rapporteur on human rights in Sudan, and public and periodic reports on the human rights situation in Darfur by the High Commissioner for Human Rights.
Acceptance Speech of the 2009 Erasmus Prize

Justice puts a stop to violence and sweeps away hatred. As Plato wrote in his Republic, “justice is a thing more precious than many pieces of gold”.

...
Public Summary of the Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charging

Case number STL-11-01/I
16 February 2011

“This customary rule requires the following elements for the crime of terrorism: (i) the perpetration of a criminal act or the threat of such act; (ii) the intent to spread fear among the population or to coerce a national or international authority to take some action, or to refrain from taking it; and (iii) a transnational element (which may lie in a connection of perpetrators, victims, or means used across two or more countries, but may also reside in the significant impact that a terrorist act in one country may have in another country). Let me emphasize that the requirement of a cross-border element goes not to the definition of terrorism but to its character as international rather than domestic. The two elements of (i) criminal act and (ii) intention to intimidate a population or compel an authority are common to both domestic and international terrorism.

Further, in spite of disagreement emanating from very few States on the definition of terrorism in time of armed conflict, an overwhelming majority of States takes the view that acts of terrorism may be repressed in time of armed conflict to the extent that such acts target civilians who do not take an active part in armed hostilities. Thus the contention is warranted that at present another customary rule is in the process of formation, which covers terrorism in time of armed conflict.”

Antonio Cassese lecturing on the STL at the Université Saint-Joseph, Beirut, 2009
A Decisive Moment for Lebanon
by Antonio Cassese
New York Times
12 July 2011

Article following the confirmation of the first STL indictment

“This is a decisive moment for the Lebanese, their state and for international justice. It is also a decisive moment for the region. Recent events across the Middle East show that the desire for justice and human dignity is universal. Over the past decades political assassinations in Lebanon have killed scores of people. The terrorism of the streets is indiscriminate — it kills political leaders and civilians alike — and can only be fought in the courtroom.

International justice is the best tool to combat this anarchy both to establish the truth and to promote order.

In the upheavals of recent months the citizens of the Middle East have made it clear to the world that the rule of law and accountability are among the pillars upon which they want to build their societies. This tribunal is an opportunity for a judicial awakening in Lebanon and the region. It is an opportunity that must not be missed.”

The work ahead is challenging for Lebanon and for the Special Tribunal. Never before has a legal case been brought at an international court for a terrorist crime. Terrorism inherently breeds injustice and insecurity.
At one point, I was having lunch with Antonio Cassese, a distinguished Italian jurist who has been serving for the past two years as the president of the court (the head of its international panel of eleven judges). He was rehearsing for me some of the more gruesome stories that have crossed his desk—maybe not the most gruesome but just the sort of thing he has to contend with every day and which perhaps accounts for the sense of urgency he brings to his mission. The story, for instance, of a soccer player. As Cassese recounted, “Famous guy, a Muslim. When he was captured, they said, ‘Aren’t you So-and-So?’ He admitted he was. So they broke both his legs, handcuffed him to a radiator, and forced him to watch as they repeatedly raped his wife and two daughters and then slit their throats. After that, he begged to be killed himself, but his tormentors must have realized that the cruellest thing they could possibly do to him now would simply be to set him free, which they did. Somehow, this man was able to make his way to some U.N. investigators, and told them about his ordeal—a few days after which he committed suicide.”

Stories like that: one judge’s daily fare. I asked Judge Cassese how, regularly obliged to gaze into such an appalling abyss, he had kept from going mad himself. His face brightened. “Ah,” he said with a smile. “You see, as often as possible I make my way over to the Mauritshuis museum, in the center of town, so as to spend a little time with the Vermeers.”

Indeed, elementary considerations of humanity and common sense make it preposterous that the use by States of weapons prohibited in armed conflicts between themselves be allowed when States try to put down rebellion by their own nationals on their own territory. What is inhumane, and consequently proscribed, in international wars, cannot but be inhumane and inadmissible in civil strife.
In the first year of the Tribunal’s existence, in the absence of a regular budget, he alone amongst the Judges was fully resident in The Hague to attend to the nuts and bolts for the physical shape of the Tribunal.

Most of the imponderables that he faced were eventually overcome in the four years that he led the Tribunal. For a lesser man the burden would have wreaked havoc on his health, physical and mental, but Nino found solace in the support he received from his wife Sylvia and his two children.

He also found solace in the paintings of Vermeer. He would view the paintings for hours on end and come out refreshed and ready for work again.

Amongst the qualities that have distinguished him in his work as President of the Tribunal are his humility, his stubbornness and his sense of humour.

His humility was well-known. All the time he officiated as Judge at the ICTY, The Hague, his means of transportation was invariably his bicycle which he used even to attend official receptions. He would seldom summon his secretary to his chambers and would go to her for his official matters to be attended to. Quite often he would be seen sitting beside his secretary in her office dictating letters to her or running through her finished correspondence. Also, he would be often seen in the rooms of the law clerks and interns having serious discussions with them. He also had the habit of dropping in on the Judges in their chambers to discuss their assignments. His modesty is hard to emulate.

… His intellectual and physical stamina is indeed proverbial.

We, the members of the International Criminal Tribunal for the former Yugoslavia, are fully aware that the sentences we will pass will not exhaust the poisoned wells of racial, national or religious hatred. We also know, however, that the setting up of our Tribunal is intended to signal that the world community will not stand idly by, impassive or resigned, and watch while barbarous acts are perpetrated, unconcerned and unaffected by them only because they are committed in what is, for most of us, a far away land, the former Yugoslavia.

You, Members of this Assembly, together with the Security Council, have decided that massacre, rape, ethnic cleansing, the wanton killing of civilians, affect each and every one of us, whatever our nationality and wherever we live. They affect each and every one of us because they imperil the great principles of civilization enshrined in international legal standards on human rights.

Mister President, the tasks that the united Nations has entrusted to us are daunting. On the eve of the United Nations’ 50th anniversary, you have decided that the United Nations should broaden its arsenal of pacific means to include resort to international criminal justice, as a lawful response to force and violence. All those who are working on behalf of the Tribunal are aware of the heavy responsibility they have been called upon to shoulder on behalf of the whole international community. We shall all accomplish the Tribunal’s mission to the very best of our ability and energy. We hope thus to make our contribution to alleviating the anguish and sorrow of all those who still continue to suffer, even as I speak now, in the former Yugoslavia.
Cassese the Scholar


“... I have sought to show some flexibility throughout my own career. While substantially accepting the basic axioms of positivism in my own research, I have modestly attempted to make some circumspect forays into related disciplines. In particular, I have tried to draw upon history and political sciences whenever they could provide insight into the rationale behind a legal institution or rule. I have also critiqued legal concepts of institutions, and proposed how in my view they could be ameliorated in order for them better to respond to current demands.”


“... I was moved by the old maxim of Roman wisdom: *hominum causa omne jus constitutum est* (any rule of law is ultimately made on account of human beings)...

I still believe that only those problems that dramatically affect the daily life of human beings are worth studying. I still believe that it is the cluster of legal rules and institutions that may have a dramatic impact on the life and suffering of human beings that should constitute the main focus of our attention as scholars.”

Antonio Cassese and Louis Henkin. *Columbia University, NY, February 1995, Panel discussion on challenges to the ICTY*


Antonio Cassese and Louis Henkin. *Columbia University, NY, February 1995, Panel discussion on challenges to the ICTY*

“... My aim is also to point to the historical and human dimension of cases. For this purpose, I have as far as possible recounted the facts behind the court’s legal findings. For one should never forget that this body of law, more than any other, results from a myriad of smaller or greater tragedies. Each crime is a tragedy, for the victims and their relatives, the witnesses, the community to which they belong, and even the perpetrator who, when brought to trial, will endure the ordeal of criminal proceedings and, if found guilty, may suffer greatly, in the form of deprivation of life, at worst, or of personal liberty, at best.

To recall it may serve as a reminder of the true historical source of criminal law. This branch of law is about human folly, wickedness, and aggressiveness. It deals with the darkest side of our nature. It also deals with how society confronts vicious violence and seeks to stem it as far as possible so as ‘to make gentle the life on this world’.”

Main Publications

**TEXTBOOKS**


**BOOKS AND ESSAYS**

*Il diritto interno nel processo internazionale* (Padova: Cedam, 1962)

*Il controllo internazionale* (Milano: Giuffrè, 1972)


‘Modern Constitutions and International Law’, in 192 Recueil des cours de l’Académie de droit international de la Haye (1985) 331


The must-reads for young international scholars according to Antonio Cassese

“...no young scholar wishing to become an academic in international law could ignore them...”

D. Anzilotti, *Corso di diritto internazionale* (Rome, 1915)


The hope that we may be able to pass on something intellectually and emotionally valuable to our children and grandchildren is an abiding solace. An academic also has another great joy: the hope that he or she has taught a way of thinking to a goodly number of young persons. I am overjoyed to see that some of those to whom I have tried to teach the use of the intellectual tools of our job are now faring so well and have surpassed me by far in the quality of their thinking.

When the ineluctable hour comes, it will find us neither dismayed nor slothful. ““Soliloquy”, in The Human dimension of International Law: Selected Papers, 2008
Obituaries

“The tragedy of Nino’s departure is beyond words.”
Judge Sir David Baragwanath, President of the Special Tribunal for Lebanon

“Above all, he taught us that no matter how great your achievements, it is always possible to remain modest.”
Judge Ralph Riachi, Vice-President of the Special Tribunal for Lebanon

“His intellectual rigour and humility are a combination that set him apart – as a leader and a visionary.”
Daniel A. Bellemare, Prosecutor, STL

“The Defence Office considers that the best hommage which they could pay to President Cassese will be to continue promoting the values and standards of justice that Nino had always defended.”
François Roux, Head of the Defence Office, STL

“He wanted to see this Tribunal succeed and to contribute in whatever way he could. But he has left an indelible mark on our work that will guide the institution long after his passing. The Tribunal will miss his vision and leadership.”
Herman von Hebel, Registrar, STL

“He had the rare combination of being an outstanding authority at the same time as he was a warm and modest person with a deep sense for humanity.”
Judge Kjell Erik Björnberg, Appeals chamber judge, STL

“Antonio Cassese was a great jurist, a scholar, a man of commitment, but most of all, an exceptional human being.”
Judge Robert Roth, Trial chamber president, STL

“He was a great man among those who have shaped the history of international justice.”
Judge Micheline Braidi, Trial chamber judge, STL

“Your departure is a loss for a world that longs for peace, human rights and international justice. We are honoured to be guided by your valuable writings and judicial decisions.”
Judge Walid Akoum, Trial chamber alternate judge, STL

“I feel privileged to have known and worked with him.”
Judge Janet Nosworthy, Trial chamber alternate judge, STL

“Judge Antonio Cassese was a pioneering innovator in international criminal law.”
David Re, Trial chamber judge, STL

“… a giant of international law …”
Ban Ki-moon, Secretary-General of the United Nations

“La sagesse est sœur de l’équité ; et au cœur de la justice. Pour avoir incarné et pratiqué ce besoin, ANTONIO CASSESE a gravé son nom dans notre mémoire nationale.”
Ibrahim Najjar, former Lebanese Minister of Justice

“Puisse le message du Président Antonio Cassese être entendu, et puisse son action servir d’exemple à l’édification d’une Justice internationale efficace.”
Ramzi Joreige, ancien Bâtonnier de l’Ordre des Avocats de Beyrouth

“His good humor was a godsend in troubled times, and he was the best kind of friend.”
David Tolbert, President of International Center of Transitional Justice

“His death is a great loss for international criminal justice.”
Judge Patrick Robinson, President of the ICTY

“… a fervant defender and a dedicated advocate for human rights.”
Judge Amin EL Mahdi, former permanent judge at the ICTY

“… a master of legal culture …”
Giorgio Napolitano, President of Italy

“We have lost an enlightened mind, a courageous man, and a valuable beacon.”
Franco Frattini, Italian Foreign Minister

“He was an outstanding jurist, a courageous campaigner for human rights and a person of exceptional warmth.”
Uri Rosenthal, Dutch Foreign Minister
Nino Cassese, in Memoriam

It is hard to describe how much Nino will be missed. He is with us in everything we do. We hear him telling us to stop mourning and to start working — to propose new exciting symposia, imagine special issues, to commission articles on the history of international criminal law and comment on judgements and decisions just rendered, and to call on his numerous friends to author papers for the Journal. Always the Professor, Nino has left each of us with our ‘homework’, his quiet inspiration to complete an unfinished task of importance.

Salvatore Zappalà, Journal of International Criminal Justice

Antonio Cassese 1937-2011

The world has lost one of its greatest international criminal lawyers. Professor Cassese was already a very distinguished academic in the field of international law, specialized in the area of human rights, when he was elected as one of the first group of judges at the International Criminal Tribunal for the former Yugoslavia in late 1993. With hindsight, we know that this was the revival of a body of law that had lain largely dormant since the trials at Nuremberg and Tokyo after World War II.

Among his early decisions, seen as controversial at the time but widely accepted since, were several that changed basic precepts of international criminal law. One was that war crimes could be punished not only in wars between nations, but also in conflicts within a particular country. In another, he wrote that even if there was no war going on, massacres, torture and other atrocities committed by governments or groups could be found to be crimes against humanity and punished accordingly.

... He insisted on the need for continuous debate because international law was gradually emerging, and as such, reflecting the common conscience of mankind. But he said it was vital to remain skeptical about harsh laws. “Laws may and should be improved if they are not up to reality,” he said frequently.

To remind himself, he kept these words from Bertolt Brecht, the German playwright and poet, on his office wall in The Hague: “I am by nature a man who is difficult to control. I reject with outrage any authority that does not rest on my respect. And I regard laws only as provisional and changeable proposals for regulating human intercourse.”


“… a model to us all …”

Alistair Burt, British Foreign Office Minister

“The loss of this eminent scholar will undoubtedly affect all those who seek for accountability and justice.”

Ambassador Miguel Berger, Permanent Mission of Germany, to the United Nations in New York

Antonio Cassese, War Crimes Law Expert, Dies at 74

In books, law journals and decisions from the bench, Judge Cassese expanded the body of international law that had lain mostly dormant since the trials at Nuremberg and Tokyo after World War II.

A professor of law in Florence and Oxford early in his career, in 1993 he became the first president of the International Criminal Tribunal for the former Yugoslavia, a court established by the United Nations to deal with war crimes in the Balkans in the 1990s.

He proved to be something of a maverick among normally discreet justices. Invariably affable but outspoken, he prodded fellow lawyers and Western governments into providing more support for the fledgling tribunal. And he played a central role in defining rules that would guide it and that have since served as a model for other tribunals and courts.

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“Géant de la justice internationale”, le juge Antonio Cassese est mort


En juillet 1995, sous son impulsion et grâce à la ténacité de plusieurs juges, le tribunal asseyait sa légitimité en inculpant les chefs serbes de Bosnie, Radovan Karadzic et Ratko Mladić. En s’attaquant aux acteurs clés des crimes de l’ex-Yugoslavie, le tribunal contraignait la communauté internationale à soutenir pleinement et pour longtemps cette nouvelle juridiction.

... Le 11-Septembre 2001 avait marqué un tournant dans la réflexion du juge italien. Antonio Cassese estimait alors que le terrorisme pouvait être qualifié de crime contre l’humanité, suscitant la controverse au sein même des défenseurs de la justice internationale. Huit ans plus tard, avec une passion égale à celle qui l’habitait lors des premiers pas du TPIY, ce pionnier du droit international prenait la tête du tribunal pour le Liban...

“Il existe une exigence morale pour que les conflits politiques ne se résolvent pas dans le sang, mais par des moyens pacifiques : le dialogue, la discussion et la négociation”, disait-il.

Stéphanie Maupas, Le Monde