

Chasing unicorns

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Thank you very much for inviting me to be your speaker. I am honoured to share a platform with Mariane Pearl. And I am delighted and honoured to address you at the start of what will be some exciting and busy days.

Every year the Oxford English Dictionary considers whether to include new words and new phrases into the dictionary. These are words or phrases that have become popular or taken on a new meaning in the year before. This year, one of the phrases that should be on their list to consider is “to go on a unicorn hunt”.

A unicorn hunt is a phrase that describes hunting for something that doesn't exist, that is impossible to find and that is impossible to capture. It's a term that implies that this is a quest that you are wasting your time on and that you are never going to achieve.

I want to tell you about a unicorn hunt that took place many years ago, but that did manage to capture what was considered a unicorn. What I want to tell you about was the quest to set up a system of international criminal justice.

This quest first started at the end of the First World War, which finished one hundred years ago almost exactly to this day. The idea was to set up a system of international justice, but on this first attempt it came to nothing. The world at this stage was dominated by sovereign states, each one defending their own sovereignty and their own interests. It was considered unacceptable, even impossible, to have an international system that could sit above national sovereignty. With such priority for national supremacy, the idea of an international solution to atrocities could not find enough support. Those of you who know your United Nations history, will also know that at the same time there was an attempt to set up the League of Nations, and it failed for the same reason.

It took the atrocities and the horrors of the Nazi regime to show the dangers of the national sovereignty. The idea arose that nations had to be answerable to a system greater than themselves. The Nazis could decree some actions legal within their own legal system, and so their actions had to be judged by the principles of natural law, a law that was based on universal principles. By this argument, the Nuremberg Courts were set up at the end of World War II. At the same time, and driven by the same horror, the international community also set up the United Nations and the International Declaration of Human Rights. These institutions survived and have become extremely important elements in global governance. However, the Nuremberg Courts were seen as very exceptional. The idea of an international criminal court

that would judge crimes committed by individuals anywhere in the world could not be sustained. It was a step too far. The Nuremberg Courts finished their work and the idea of an international criminal court remained just that, an idea.

Decades passed, but the idea of international justice did not disappear. Surprisingly enough, the idea was resurrected with a request by Trinidad and Tobago in 1989. Trinidad and Tobago is a little country in the Caribbean, the population is just over a million. They put forward a motion to have an International Criminal Court to deal with drug smuggling. The proposal itself went nowhere, but the topic was back on the map.

It took two more horrors before the international community started thinking about a permanent international criminal court. During the Yugoslav conflicts in the 1990s, around 140,000 people were killed and there were horrific genocides, war crimes and crimes against humanity. Afterwards, the United Nations set up the International Criminal Tribunal for the Former Yugoslavia to bring the perpetrators to court. In the Rwanda genocide in 1994, between 500,000 and 1,000,000 people were killed. Afterwards, the United Nations set up the International Criminal Tribunal for Rwanda.

However, these courts were limited to only those countries and only the crimes that happened during those incidents. The idea started to grow for a permanent international court, and a couple of countries started to take the idea forward. The two countries were Canada and Australia. I don't know who of you out there is representing Canada and Australia. Nice countries. All the world likes them. Democracies. Strong on human rights. But they're not the most powerful countries on the world's stage. Neither are countries that can impose their will on the world order. Well, these countries started to work together and became the drivers.

The countries that call the shots in the world, the permanent members of the UN Security Council, they weren't so keen on giving much power to the International Court. They didn't want an international court that sat over them. Yet, Canada and Australia kept pushing, and kept insisting on the values of justice and human rights. Crimes against humanity could not be acceptable. Instead, these norms of common good became accepted as the right way to act. And slowly other countries started to line up with them. They called themselves the Like-Minded Countries.

By the time it came to the final decision-making conference, the Like-Minded Countries numbered more than 60 countries from all around the world, and they had been joined by literally hundreds of non-governmental organizations in support. The majority were small countries that normally had little say over international policy. These countries took the chairs of the different committees and they set the agendas for the discussions. Over the course of the conference they established an international criminal court that was permanent and independent.

The Like-Minded Countries shaped the form of the International Criminal Court. They got an independent Prosecutor, even though the permanent members of the security council wanted to protect themselves from a prosecutor able to act independently. The permanent members

of the Security Council wanted a veto on prosecutions. They didn't get one. The Like-Minded Countries kept pushing, compromising, convincing other countries. What was their reason for success? A large part of their strength came because the norms of justice and human rights were accepted as being right. In the end, the Statute was passed by 120 votes with only 7 votes against.

The International Criminal Court is not perfect. There are plenty of things that you can criticize. But the fact that it is there is amazing. It has been described as "the most innovative and exciting development in international law since the establishment of the United Nations." A permanent international criminal court was a unicorn; capturing it took almost 100 years; but here was a unicorn hunt that managed to capture a unicorn.

I want to tell you now why it is so important for you to think about capturing unicorns. The world we live in has taken a turn for the worse and it's become a very ugly place. 55% of the countries in the world are either not free or only partly free. And increasingly, countries are putting their own national interests first. National interests now trump international cooperation. The international structure that took so much effort to build, after the Second World War, and that was built up to stop the horrors of the Second World War happening again, these structures are being abandoned and side-lined. International trade agreements, the North Atlantic Treaty Organization, countries like China and Russia using Interpol to capture their critics abroad.... We now have a situation where more and more leaders are taking their country in an authoritarian way, always claiming that their national interests demand it. There are countries suppressing the freedom of the press in the name of their own national interest. There are countries suppressing the rule of law in the name of their own national interest.

And more than that, the norms of what is acceptable behaviour, the norms that underpin these actions, are being overturned. The norms of democracy, collaboration, consensus building, concessions, the greater good, of human rights, all of these things are being overturned. Or even usurped and distorted. So now we have the strange situation where the majority of authoritarian countries have elections. On the surface that would seem a good thing. They give the appearance of following democratic norms, but those norms are hollow and meaningless. They have elections but there is never any doubt about who is going to win.

This is the future that you will be moving into in the next few years and that you will have the potential to shape in the years to come. I want you to take away two thoughts from what I've said.

The first thought is that you don't have to be the most powerful country in the world to get things done. Small actors, working together, can change the world.

The second thought is that hunting a unicorn does not have to mean an impossible goal or something that will never be achieved. I hope you all go out to hunt and catch your unicorns.