Advances and Challenges in the Fight against Impunity

Congress on International Criminal Justice

26 February | 09:00-18:00

Assembly Hall, Barcelona Bar Association

FIBGAR

ICAB
ADVOCACIA BARCELONA

MINISTERIO
DE ASUNTOS EXTERIORES, UNIÓN EUROPEA
Y COOPERACIÓN

SECRETARÍA DE ESTADO
DE ASUNTOS EXTERIORES
Y GLOBALES

DIRECCIÓN GENERAL DE NACIONES
UNIDAS, ORGANISMOS INTERNACIONALES
Y DERECHOS HUMANOS

Publication date: March 2026

FIBGAR Conference Report

Authorship: FIBGAR
Federica Carnevale
Layout: Federica Carnevale
Editing and proofreading: Alessia Schiavon

Disclaimer:
The opinions expressed in this publication are those of the authors. They do not necessarily reflect the views of FIBGAR, the Barcelona Bar Association (ICAB), or the Ministry of Foreign Affairs, European Union and Cooperation, through the Secretariat of State for Foreign and Global Affairs.

Credits and acknowledgements:
We acknowledge the collective work contributed by the experts who participated as speakers in the Congress, which made the preparation of this report possible.

CONTENTS

REPORT OF THE CONGRESS ON INTERNATIONAL CRIMINAL JUSTICE: PROGRESS AND CHALLENGES IN THE FIGHT AGAINST IMPUNITY

Barcelona, 26 February 2026.

INTRODUCTION

On 26 February, the Congress on International Criminal Justice: Progress and Challenges in the Fight against Impunity was held in Barcelona, conceived as a forum for reflection and dialogue on the contemporary challenges facing international criminal law. The event was supported by the Barcelona Bar Association (ICAB) and the ICAB's Commission on International Criminal Justice and Human Rights, and co-funded by the Ministry of Foreign Affairs, European Union and Cooperation, through the Secretariat of State for Foreign and Global Affairs.

The conference brought together judges, academics, lawyers and representatives of civil society with the common aim of reaffirming the centrality of international criminal justice as an essential instrument for the protection of human rights and accountability for the most serious crimes. It also sought to create a forum for critically analysing the progress, tensions and opportunities in the fight against impunity at a global level.

In this regard, it served as a forum for legal analysis and strategic reflection on the current state of international criminal law. From the institutional opening by Alessia Schiavon, David Querol and Eugeni Gay, through Baltasar Garzón's inaugural lecture and the various thematic panels, the Congress offered a comprehensive and coherent overview of the contemporary international criminal justice system, highlighting both the normative progress achieved and the structural tensions that threaten its effectiveness.

Within this framework, the purpose of this report is to systematise the main ideas, debates and proposals that emerged throughout the event, offering a coherent overview of the various presentations and highlighting the points of convergence. It

is not merely a matter of recording individual contributions, but of reconstructing the central theme that ran through the Congress: the conviction that impunity is not inevitable, but rather a legal and political challenge for which concrete tools exist.

Furthermore, this document seeks to highlight how each panel, through its specific thematic focus, contributed to reinforcing a common thesis: that international criminal justice constitutes an indispensable pillar for the rule of law on a global scale.

Finally, the report aims to serve as a tool for outreach, identifying future courses of action and consolidating a network for inter-institutional reflection and cooperation. In keeping with the Congress's mission, this document will reflect that the active defence of international criminal law is not merely another academic option, but a legal and ethical responsibility towards victims and the international community as a whole.

INSTITUTIONAL WELCOME

Presented by: David Querol – Chair of the ICAB Commission on International Criminal Justice and Human Rights –, Eugenia Gay – ICAB Dean Emeritus – and Alessia Schiavon – Lawyer and Director of FIBGAR –.

David Querol, Chair of the ICAB Commission on International Criminal Justice and Human Rights, delivered an institutional welcome address, emphasising the importance of the legal profession taking an active role in defending the international legal order, and highlighting the strategic nature of the conference as a forum for committed legal dialogue.

Next, ICAB's Dean Emeritus, **Eugenia Gay**, focused her speech on the historical consolidation of international criminal justice and its foundations. She emphasised that the system established after the Second World War was not an idealistic gesture, but a legal response to barbarism, and warned that its progressive weakening, due to unilateralism and disregard for common norms, undermines both peace and the very idea of the international community. She stressed that international criminal law constitutes a legal obligation whose fulfilment requires courage in the face of political pressures.

During his presentation, he explained that the fundamental principles of the United Nations Charter, including the sovereign equality of States, the fulfilment of

international obligations in good faith, the peaceful settlement of disputes and the abstention from the use of force, form the basis upon which essential values such as the defence of human rights, the protection of the environment and international solidarity are built, highlighting the need for a current commitment to them. Furthermore, she highlighted the system's capacity to incorporate new values and respond to contemporary challenges.

The Dean Emeritus also analysed the recent international situation, noting how the actions of certain actors have called into question the effectiveness of international law. Despite this, she emphasised the importance of legal professionals denouncing violations of the international order and defending human dignity as a central principle of the rule of law. She stressed that the protection of fundamental rights and the observance of international law require commitment, courage and a deep understanding of the history and legal mechanisms underpinning global justice.

For her part, **Alessia Schiavon**, Director of FIBGAR, thanked the institutions and participants for their collaboration, and highlighted the conference's role as a meeting point for professionals from the legal profession, academia and civil society.

She also placed particular emphasis on the need to consolidate an inclusive space for debate, enabling those interested in the defence of human rights and international criminal justice to contribute actively. She thanked all attendees, both in person and online, for their commitment, and stressed that collaboration between professionals and civil society is essential to addressing the challenges of a complex and constantly evolving global legal system.

Finally, the official opening concluded with the presentation of the inaugural lecture by Baltasar Garzón, entitled "Taking stock *of the fight against impunity*". This event marked the start of the conference sessions.

INAUGURAL LECTURE: ASSESSMENT OF THE FIGHT AGAINST IMPUNITY.

Speaker: Baltasar Garzón Real – Honorary President of FIBGAR

The opening lecture of the Congress on International Criminal Justice, delivered by **Dr Baltasar Garzón Real**, jurist and Honorary President of FIBGAR, focused on analysing the current state of affairs and the challenges of the fight against impunity at a global level. At the start of his address, he expressed his gratitude for the opportunity to participate in an event of such institutional significance as that held at the Barcelona Bar Association, recalling previous experiences and highlighting the core theme of the conference: impunity and the need to tackle it within a robust and coherent international legal framework.

Dr Garzón emphasised that, in the contemporary context, multilateralism is being called into question and the principles established after the Second World War appear to be giving way to a "cult of impunity" promoted by the world's most influential powers. He noted that, despite these circumstances, international criminal law retains the capacity to offer an alternative model based on the equality of states and accountability for the most serious crimes, as enshrined in Article 2 of the United Nations Charter.

In his presentation, he described the historical evolution of international criminal law, emphasising that these conventional structures, voluntarily agreed upon by States, form the basis of a legal system aimed at preventing impunity, despite the tensions, renunciations or confrontations that have arisen over the decades.

He also analysed the dichotomy between domestic law and international law, noting that, although certain actors consider that international instruments do not affect national jurisdiction, they represent a shared cession of sovereignty in the interests of a higher good: the protection of the international community and the rights of victims. He emphasised that the crimes that most threaten international peace require strict harmonisation between national and international legal systems.

Dr Garzón emphasised the need for a progressive interpretation of international instruments, aimed at providing redress for victims and preventing impunity. He highlighted the importance of incorporating gender perspectives and recognising new forms of international crimes in current legislation. Furthermore, he noted that a conservative application of international norms can undermine the effectiveness of international criminal law, and that legal practitioners must act with a proactive vision, prioritising universal principles over domestic restrictions.

The speaker illustrated this need through paradigmatic cases, such as the prosecution of Pinochet and the judicial proceedings in Argentina, both under the

principle of universal jurisdiction. He noted that these cases demonstrated how the rigorous application of international criminal law, whilst respecting domestic legal and procedural limits, enabled progress in the pursuit of justice despite political and media pressure.

He also warned against the privatisation of peace and the pressure exerted by major powers on international organisations, which has led to a weakening of the system based on the equality of states. Furthermore, he noted that the instrumentalisation of the law for political ends, known as *'lawfare'*, constitutes a constant challenge, and that the only way to counter impunity is through decisive action by legal professionals, judicial practitioners and organised civil society.

In his closing remarks, Dr Baltasar Garzón called for the strengthening of international mechanisms, the need to discuss certain reforms within United Nations processes, and full cooperation with the International Criminal Court, ensuring effective resources and procedures. He emphasised that the fight against impunity cannot depend solely on national decisions or economic interests, and that the active participation of victims and civil society is essential to guarantee the effectiveness of international criminal law.

Subsequently, during the question-and-answer session, issues such as the role of economic interests in crimes against humanity, the criminal liability of companies linked to armed conflicts and genocide, and the need to extend the International Criminal Court's investigations beyond specific geographical contexts were addressed. It was also emphasised that all these elements are interrelated and that a comprehensive approach is fundamental to ensuring global justice.

Finally, regarding the participation of victims in judicial proceedings and the resistance of certain governments to implementing universal jurisdiction. Dr Baltasar Garzón highlighted that the mobilisation of civil society and the perseverance of victims have been decisive in advancing justice processes, noting that, although impunity remains the norm in many contexts, collective action and respect for the fundamental principles of international law make it possible to chart a path towards accountability and effective reparation.

PANEL I: THE INTERNATIONAL CRIMINAL COURT: CHALLENGES AND PROSPECTS

Speakers: Alexandra García Tabernero –Public Prosecutor at the Barcelona Court of Appeal, Professor of Criminal Law at the University of Barcelona, former intern at the International Criminal Court– and Jaume Antich Soler –Lawyer, Professor of Criminal Law at the Autonomous University of Barcelona (UAB) and Advisor to the ICAB Commission on International Criminal Justice and Human Rights–.

Moderator: Silvia Soler – Member of the ICAB Commission on International Criminal Justice and Human Rights–.

The first panel of the Congress was dedicated to analysing the current challenges facing the International Criminal Court (ICC), moderated by Silvia Soler.

In this session, **Alexandra García Tabernero** focused her presentation on the legal and political tensions facing the institution, particularly when it exercises its jurisdiction in situations involving citizens of powerful states or states that are not parties to the Rome Statute. Her presentation centred on the case of Palestine and the proceedings against Israeli state authorities, highlighting how this scenario tests the very architecture of international criminal justice.

Dr García Tabernero began by placing the debate in a historical perspective, recalling that more than five decades elapsed between the Nuremberg trials and the International Criminal Court's first judgment, a period marked by a Cold War that failed to dismantle the project of international justice. She emphasised that the current context of tensions is not immutable, but is particularly complex, as the Court faces direct pressures seeking to limit the scope of its jurisdiction and challenge its legitimacy.

The speaker outlined in detail the impact of the sanctions imposed by the United States against ICC judges and prosecutors in December 2025 and February 2026, following decisions relating to Israeli state authorities. She noted that these measures, publicly presented as retaliation for actions deemed "illegitimate", constitute a general deterrent mechanism intended to send a warning message to the international community. In her view, these sanctions not only affect judges and prosecutors individually, but also constitute a form of institutional coercion that erodes judicial independence, an essential pillar of the system's legitimacy.

As for the legal substance of the case, García Tabernero explained that the dispute centres on the Court's jurisdiction. In this regard, he recalled that the ICC can only exercise jurisdiction over the most serious crimes — genocide, crimes against

humanity, war crimes and the crime of aggression — and under the principle of complementarity, intervening only when States are unable or unwilling to conduct a genuine investigation. He also noted that the ICC may exercise its jurisdiction through three channels provided for in the Rome Statute: referral of a situation by the United Nations Security Council, referral by a State Party, or the opening of an investigation on the Prosecutor's own initiative *(proprio motu)*, with judicial authorisation. He noted that the Security Council route is the broadest, as it allows for the investigation of crimes committed anywhere in the world, including in States that have not ratified the Statute. In contrast, the other two avenues require that the events have taken place on the territory of a State Party or that the persons under investigation are nationals of a State Party; otherwise, the Court could only intervene if the Security Council refers the situation. He went on to note that 125 States are currently parties to the Statute, although some key countries, such as Israel and the United States, have not ratified it.

He went on to explain that the ICC Prosecutor's Office had requested the Pre-Trial Chamber to define the territorial scope of jurisdiction, ruling in 2021 that the Court could exercise jurisdiction over Gaza and East Jerusalem.

In the case of Palestine, the Court considers it to be a State Party, given that it has ratified the Rome Statute and is recognised as a State by 158 countries, approximately 81% of the international community. On that basis, the ICC has asserted its territorial jurisdiction over crimes allegedly committed on its territory. Israel, for its part, maintains that the Court is exercising jurisdiction without its consent, arguing that Palestine does not meet the requirements of statehood in the classical sense of international law. The dispute, therefore, combines strictly legal issues of jurisdiction with broader debates on state recognition and sovereignty.

The speaker also recalled that in 2024, the Office of the Prosecutor requested arrest warrants against Hamas leaders and Israeli officials, which led to challenges by Israel and new judicial decisions that, whilst referring certain aspects back for substantive review, upheld the validity of the arrest warrants.

Dr García Tabernero emphasised that this scenario reveals a structural challenge: although the Court's jurisdiction has a solid legal basis, the political and economic cost of exercising it against certain States is evident. She also highlighted the warnings issued by the United Nations Special Rapporteur on the independence of judges and lawyers, who cautioned against the risk of impunity arising from

sanctions and the intimidating effect they may have, including on third parties with professional or commercial ties to those sanctioned.

During the question-and-answer session, the practical implications of the principle of complementarity were addressed, as well as the possibility that Israel, through genuine domestic investigations, could preclude the Court's jurisdiction. García Tabernero noted that the Statute expressly provides for this option, but insisted that it is for the ICC to assess the authenticity and effectiveness of such proceedings. The impact of sanctions on the institution's day-to-day operations was also discussed, as was the risk that other States might adopt similar measures, thereby progressively weakening the system.

The concluding dialogue emphasised the protection of victims and the need to preserve a minimum degree of stability within the international legal order. The speaker concluded that the case of Palestine not only jeopardises the institutional survival of the Court, but also constitutes a decisive test for the viability of international criminal justice as a whole. In her view, even if some States decide not to participate actively in the system, the challenge lies, at the very least, in preventing them from undermining it and in ensuring that the defence of victims remains the central pillar of international criminal law.

For his part, **Jaume Antich Soler** began his speech by placing the debate in a historical and comparative perspective, recalling that international criminal responsibility has traditionally been built on the basis of individual liability. However, he argued that the current context—marked by economic globalisation, the outsourcing of strategic functions and the growing involvement of large corporations in conflict zones—necessitates a rethinking of this paradigm. In his view, limiting prosecution to natural persons leaves ample scope for impunity when the decisions, material resources and benefits of crimes are structured through complex corporate organisations.

Dr Antich pointed out that the debate is not starting from scratch. He recalled that the question of the liability of certain organisational structures had already been raised during the Nuremberg trials, and that during the drafting of the Rome Statute, the possibility of including legal persons as active subjects before the International Criminal Court was discussed on several occasions. Although this jurisdiction was not ultimately incorporated, the process involved significant conceptual groundwork that could now be revisited with greater maturity.

At the domestic level, he highlighted the Spanish case as an example of significant progress. Organic Law 5/2010 introduced criminal liability for legal persons in Spain for the first time, a development reinforced by the reforms of 2012 and 2015, as well as by subsequent case law. By 2026, he stated, a significant journey can be observed, with a model which, despite its limitations—such as the *numerus clausus* system—has achieved a functional balance and could serve as a reference for a potential design at the international level.

According to the speaker, this progress is not unique to Spain. With different models—ranging from heteroresponsibility, self-responsibility or mixed models—most legal systems have been converging towards the acceptance of corporate criminal liability. This process has been accompanied by the so-called 'compliance effect': the widespread adoption of internal crime prevention programmes, audits, control mechanisms and certifications aimed at reducing risks and detecting irregularities. Even public administrations have begun to incorporate these preventive approaches. For Dr Antich, this phenomenon demonstrates that the groundwork has been laid for considering an international compliance framework linked to the Court's standards.

The professor emphasised that there are areas where the prosecution of natural persons alone is clearly insufficient. He mentioned, amongst others, the production and use of drones, the development of artificial intelligence systems applied to armed conflicts, the massive exploitation of natural resources and international corruption. In these scenarios, the question arises as to whom responsibility should be attributed: to the operator carrying out an order, to the manager authorising it, or to the company that designs the system and benefits structurally from it? In his view, without holding legal persons accountable, many of these crimes remain, in practice, unpunished.

At this point, he linked his proposal to the need to expand the Court's jurisdiction, specifically referring to ecocide as a crime that should be brought within the ICC's remit. He noted that numerous instances of massive environmental damage are committed by corporations whose economic power even exceeds that of the states in which they operate. The possibility that the Court could impose not only penalties such as dissolution or intervention, but also substantial fines, would have a dual effect: strengthening prevention and providing the institution itself with additional resources, which are currently limited as it relies almost exclusively on state contributions. In a single investigation, he noted, natural and legal persons could be prosecuted jointly, thereby avoiding procedural duplication.

During the question and answer session, one of the contributions focused on the role of compliance in the prevention of international crimes. Antich explained that these programmes are not limited to formal protocols, but involve effective control mechanisms, audits and early risk detection systems. He highlighted the importance of *the 'tone from the* top' principle, according to which company management must demonstrate a genuine and visible commitment to legality. He also proposed the development of international *soft law* standards and specific certifications for particularly sensitive sectors, such as the arms or logistics industries, adapting existing models in the fight against corruption.

Another question raised was whether, before expanding the Court's jurisdiction — for example, by incorporating ecocide or the liability of legal persons — it would not first be necessary to strengthen its financial and human resources, as well as to define a clear model (such as that of self-accountability) for incorporation into the Statute. In this regard, Dr Antich suggested that the expansion could also be viewed as an opportunity: financial penalties imposed on large corporations could generate significant revenue for the Court. He acknowledged that this would entail an increase in workload and that there is political reluctance, but maintained that the current moment is particularly favourable for taking this step, including by drawing on models such as the Spanish one, duly adapted to the Statute's system.

PANEL II: PROGRESS IN THE PROSECUTION OF INTERNATIONAL CRIMES

Speakers: Álvaro de Juan García –Prosecutor at the Barcelona Provincial Prosecutor's Office, PhD candidate in Criminal Law at the Autonomous University of Barcelona– and Elisenda Calvet Martínez –Associate Professor of Public International Law at the Faculty of Law, University of Barcelona–.

Moderator: Alessia Schiavon – Lawyer and Director of FIBGAR.

The second panel, moderated by Alessia Schiavon, brought together Álvaro de Juan García and Elisenda Calvet Martínez to discuss two central themes of contemporary international criminal law: the principle of legality and the effective incorporation of a gender perspective in the prosecution of international crimes. Although distinct, both approaches converged on a common concern: how to prevent impunity without sacrificing fundamental guarantees.

Álvaro de Juan García focused his remarks on a key question: can a national court investigate and prosecute international crimes that, at the time of their commission, were not criminalised under its domestic law? In his view, the answer requires moving away from an exclusively domestic interpretation of the principle *of nullum crimen sine lege* and understanding it, in the international context, as *nullum crimen sine iure*. In other words, it is not solely a matter of domestic legislation, but of the body of sources of international law—treaties, custom and general principles—which constitute a sufficient prior legal basis.

He explained that international criminal law operates according to a different logic from that of domestic law: it employs its own forms of attribution, specific interpretative criteria and a broader system of sources. He recalled that the Rome Statute, in Article 21, establishes a complex system of applicable sources, in which treaties, customary law and general principles of law occupy a central place, whilst judicial decisions and doctrine act as auxiliary means. This multi-tiered nature is reflected not only in the International Criminal Court, but also in *ad hoc* tribunals, hybrid courts and national jurisdictions acting under the principle of universal jurisdiction.

He emphasised that the ICC is not omnipotent: it lacks its own police force, depends on state cooperation and has limited resources. Furthermore, there may be cases of fraudulent res judicata or situations of territorial or subject-matter lack of jurisdiction. In such cases, the final recourse available is action by other states through universal jurisdiction. This is where the conflict arises: if international crimes are not subject to statutes of limitations but were not classified as such under domestic law, does prosecuting them violate the principle of legality?

Dr De Juan García argued that it does not, provided that those crimes were already recognised under customary or conventional international law at the time of the events. He invoked Article 7(2) of the European Convention on Human Rights, which permits prosecution for acts which, at the time of their commission, were criminal "according to the general principles of law recognised by civilised nations". He referred to the case of Streletz, Kessler and Krenz v. Germany, in which the European Court of Human Rights held that the principle of legality was not violated by the prosecution of crimes which, although not provided for in the domestic law of the GDR, were already considered contrary to international law at the time of the events.

He acknowledged, however, that this position is not uncontroversial. Some legal scholars criticise this interpretation for approaching a "criminal law of the enemy" or

for lacking a general preventive effect when punishing acts that occurred decades ago. In response, he argued that the core of the principle of legality is to guarantee accessibility, predictability and specificity. If those requirements were met at the international level, there is no breach of legal certainty. It is not a matter of eroding domestic legality, but of reconciling it with a pre-existing international system.

In practical terms, he referred to the Spanish example and the Supreme Court's ruling in the Scilingo case, which held that crimes against humanity were already part of customary international law in the 1970s, with the penalties corresponding to the predicate offences set out in the Criminal Code (such as murder or unlawful detention) being applied. This model would demonstrate that it is possible to preserve the principle of legality in criminal law whilst, at the same time, preventing impunity for serious international crimes.

During the question and answer session, Álvaro de Juan García was asked whether this broad conception of the principle of legality places excessive strain on state sovereignty. He replied that states today cannot be conceived of as watertight compartments: provided that domestic legislation does not contradict international law, its application in accordance with the latter does not violate procedural guarantees. He added that no one can claim ignorance regarding universally prohibited atrocities and that even certain United Nations resolutions could contribute to the formation of international custom, provided there is sufficient state practice and legal conviction.

For her part, **Elisenda Calvet Martínez** addressed the evolution of the gender perspective in international criminal justice. She highlighted the historic advance represented by the Rome Statute in expressly criminalising acts such as forced sterilisation, forced pregnancy and persecution on the grounds of gender, building on previous developments by tribunals such as the International Criminal Tribunal for the Former Yugoslavia. However, she warned of the persistence of a gap between legal recognition and actual judicial practice.

He referred to the case against Al Hassan, in which, for the first time, the Office of the Prosecutor at the International Criminal Court included charges of persecution on the grounds of gender. She noted that, although this was a historic opportunity, in 2024 the Trial Chamber acquitted the accused of these charges on the grounds that specific discriminatory intent had not been proven. She also highlighted factors such as the evidential difficulties in proving the element of intent, the persistence of bias in judicial assessments, and the Office of the Prosecutor's decision not to appeal the

acquittal on this point. She recalled that, despite progress in the adoption of specific policies on gender-based persecution (2022) and gender-based crimes (2023) by the Office of the Prosecutor of the International Criminal Court to mainstream the gender perspective, their practical implementation remains complex.

Furthermore, Dr Calvet Martínez presented her experience as a judge of the Permanent Peoples' Tribunal on the women of Afghanistan as an alternative form of justice driven by civil society. Although, she noted, it is not a state mechanism nor is it formally binding, its judgement—made public in December 2025 in The Hague, following hearings held at the Madrid Bar Association in October 2025—constituted a ruling of high legal and political significance. The Tribunal highlighted the situation of institutionalised and systematic discrimination suffered by Afghan women since the Taliban regime's return to power in August 2021, characterised by exclusion from education and work, restrictions on freedom of movement, limitations on access to healthcare and justice, enforced disappearances, arbitrary detentions and various forms of physical and sexual violence. It stated that, in a context where some states appear to be moving towards diplomatic normalisation of the de facto Taliban government, this 'grassroots' initiative sought to refocus the debate on the rights of victims.

It was highlighted that, although the International Criminal Court, the International Court of Justice and various United Nations mechanisms are addressing the situation—meaning there is no absolute lack of protection—the People's Tribunal for Women in Afghanistan brought a distinct dimension: justice with a strong feminist, decolonial and pluralistic focus. The composition of the panel—comprising mainly women from diverse backgrounds, including journalists, a psychologist and legal experts with knowledge of the Islamic world, from India, Italy, Egypt and the United States—was highlighted as a value in itself, as it incorporated perspectives that go beyond a strictly legal approach. It also highlighted that, through 22 testimonies, Afghan women were at the centre of the process, in an exercise of active listening that went beyond the mere documentation of human rights violations. And that, although the ruling does not impose sanctions, it constitutes a significant contribution to restorative justice: it gives a voice back to the survivors, makes recommendations to the international community, the United Nations and the de facto Taliban government itself, and lays the foundations for potential reparations processes.

In this context, she strongly advocated for the urgent need to codify the crime of gender apartheid as a crime against humanity and to incorporate it into ongoing

international normative developments. The conceptualisation of this offence would allow for the legal recognition of the structural and systematic dimension of the oppression suffered by Afghan women, providing the International Criminal Court and other international mechanisms with an appropriate tool to prosecute these practices. It was emphasised that international law must reflect the evolution of international crimes and that such progress cannot occur without the active voice of the victims, whose concrete experience drives the transformation of the legal framework towards more effective protection against new forms of structural violence.

During the Q&A session, Dr Calvet Martínez was asked about ways to overcome evidentiary challenges in gender-based crimes. The speaker emphasised the importance of evidentiary strategies sensitive to the structural context of discrimination, and of greater victim participation in proceedings. She concluded that international criminal justice can only progress if it actively listens to victims and adapts its legal categories to the actual evolution of international crimes.

The moderator, **Alessia Schiavón**, used her turn to present the **RAGAA** campaign, an initiative seeking to support Afghan women from Spain. The campaign works, on the one hand, to promote access to justice both before the Spanish courts and before the International Criminal Court, in particular through the Office of Victims. Furthermore, the initiative promotes the recognition and codification of gender apartheid within the international legal framework. In this regard, the hope was expressed that the future convention would adopt a broad gender perspective, one that is not limited solely to the concept of apartheid, but incorporates a more open and victim-centred approach.

PANEL III: VICTIMS' RIGHTS

Speakers: Jesús Becerra –Criminal lawyer, Associate Professor of Criminal Law at the UPF, member of the ICAB Human Rights Commission– and David Querol Sánchez –Chair of the ICAB Criminal Justice and Human Rights Commission–.

Moderator: Elena Vallejo – Member of the ICAB Commission on International Criminal Justice and Human Rights.

The afternoon session was opened by Elena Vallejo, who, after introducing the panellists – Jesús Becerra and David Querol Sánchez – screened an institutional video from the International Criminal Court focusing on the role of victims in the

international criminal justice system. This audiovisual resource helped to set the tone for the debate: the Court's raison d'être and the place occupied by those who have suffered the most serious crimes affecting the international community as a whole.

Dr Jesús Becerra began his address by noting that, to properly understand the Court's procedural framework, it is essential to refer to its Preamble, which expresses the determination to put an end to impunity for the most serious crimes and to ensure respect for the rights of victims. He recalled that the Court represents, in many cases, the final resort of criminal law to prevent impunity, and that its creation responds precisely to the need to provide an institutional response to crimes that shock the conscience of humanity.

However, he warned of various difficulties in the system's operation. Firstly, he highlighted the fragmentation of the rules: the applicable regime is spread across the Rome Statute, the Rules of Procedure and Evidence, and other complementary instruments, which requires a systematic effort to obtain a coherent view of the procedural process. Secondly, he emphasised that the Court's jurisdiction operates in a manner complementary to that of national courts, which influences both the opening of investigations and the participation of victims. Finally, he explained that the Court's procedural model constitutes a compromise between *common law* and *civil law* traditions, creating a hybrid structure in which diverse procedural techniques coexist.

Within this framework, he addressed the issue of the victim's legal status, highlighting that, strictly speaking, the victim is not a party to the proceedings. Unlike systems where private prosecution exists, victims before the Court cannot bring charges or independently pursue the prosecution. This arrangement stems, in part, from the influence of Anglo-Saxon systems and the fear that a massive wave of prosecutions could overwhelm the Court's operations in contexts of large-scale criminality. However, their participation is extensive and significant, particularly with regard to the right to reparation.

Dr Becerra also explained the requirements for acquiring victim status under Article 85 of the Rules of Procedure and Evidence: natural persons who have suffered harm as a result of a crime within the Court's jurisdiction may be considered victims, as well as certain legal persons in respect of direct damage to their property. He noted that identification has been flexible in contexts where formal documentation is scarce, with alternative means of proof being accepted. He also highlighted the need to establish a causal link between the crime and the harm—whether material,

physical or psychological—distinguishing between direct and indirect victims and specifying that, in the latter case, a sufficiently established relationship is required.

It also detailed the role of victims throughout the various stages of the proceedings: they may submit observations to the Pre-Trial Chamber, file written submissions, participate in the confirmation of charges hearing, propose certain alternative legal characterisations within the factual framework established by the Office of the Prosecutor, cross-examine witnesses and challenge evidence at trial. However, he emphasised that they cannot lodge appeals independently, but must request the Office of the Prosecutor to do so, although such a request is not binding. In any event, he underlined the importance of legal representation accredited before the Court and the central role played by victims even from the investigation phase, particularly when the Office of the Prosecutor acts ex officio.

Dr David Querol then explored the conceptual and practical dimensions of the notion of a victim in the international context. He began with a theoretical reflection: there is no single, fixed concept of a victim in international law, but rather a construct drawn from various sources—human rights, international humanitarian law and the typologies of the Rome Statute. This necessitates a case-by-case analysis to determine which individuals may be considered victims of genocide, crimes against humanity, war crimes or aggression, as well as cross-cutting offences linked to these categories.

From a practical perspective, she recounted the experience of drafting a protocol on legal aid for victims of war crimes, emphasising the importance of identifying potential victims even outside the territory where the acts were committed, for example, in asylum or international protection proceedings. She noted that these crimes are not subject to statutes of limitations, which implies that victim status can extend over time and that the pursuit of justice does not cease with the passing of years.

With regard to reparation, she highlighted Article 75 of the Rome Statute, which provides for measures of restitution, compensation and rehabilitation. She emphasised that victims seek not only financial compensation—including loss of earnings—but also recognition, protection and guarantees of non-repetition. He referred to the role of the Trust Fund for Victims, financed through voluntary contributions and confiscated assets, identifying as the main challenges the insufficiency of resources, the complexity of operating in contexts of active conflict, and the high expectations generated in the affected communities.

During the question-and-answer session, the question was raised as to whether, in the current climate of widespread impunity – such as the situation in Venezuela mentioned by attendees – victims can realistically expect to obtain redress through the Court. Dr Becerra replied that, as legal professionals, it is necessary to exhaust all available legal avenues, including confiscation mechanisms and international cooperation, and he pointed out that the fact that these crimes are not subject to a statute of limitations keeps the possibility of justice alive in the long term. Dr Querol added that, beyond financial reparation, public recognition of victim status and the opportunity to be heard constitute, in themselves, an essential form of justice. Both agreed that the fight against impunity requires institutional perseverance and a sustained commitment to those who have suffered the most serious violations of international law.

PANEL IV: THE ROLE OF UNIVERSAL JURISDICTION IN THE PROSECUTION OF INTERNATIONAL CRIMES

Speakers: Reed Brody – Human rights lawyer, former legal adviser and spokesperson for Human Rights Watch – and Alessia Schiavon – Lawyer, Director of FIBGAR –.

Moderator: Yolanda Bassas – Member of the ICAB Commission on International Criminal Justice and Human Rights.

The moderator opened the session by emphasising the importance of the principle of universal jurisdiction as a key tool for combating impunity in international criminal justice, highlighting that its effectiveness depends both on its proper codification and on the commitment of legal practitioners and society to demand its application. She then introduced the lawyer and human rights defender Reed Brody, recognised for his work on landmark cases against those responsible for international crimes and for his involvement in various investigations, and thanked the lawyer and Director of FIBGAR, Alessia Schiavon, for participating as a speaker, as well as expressing gratitude for the institutional support in organising the event.

Reed Brody focused his presentation on the historical evolution and consolidation of the principle of universal jurisdiction, emphasising its potential as a tool against impunity for international crimes. He noted that landmark cases have marked milestones in its application, with the arrest warrant issued in 1998 by Baltasar Garzón against Augusto Pinochet being a prime example. He highlighted that this

process demonstrated that former heads of state could be called to account before foreign courts, undermining the notion of absolute immunity.

The speaker recalled that this episode in the United Kingdom had not only legal implications but also a strong symbolic impact, setting a precedent that alerted dictators and authorities to the possibility of facing international accountability. He emphasised that the experience demonstrated the importance of coordinated action between lawyers, activists and victims, as well as the need for swift and strategic judicial decisions to ensure the effectiveness of justice.

Brody also examined the case of Hissène Habré in greater depth, highlighting that his trial in Senegal served as a model of coordination between regional and international mechanisms. He noted that the active participation of victims, a rigorous documentation process and institutional collaboration were fundamental elements in overcoming legal and political obstacles. This case, he stated, demonstrates that justice can be achieved even decades after the events, sending a clear message regarding accountability and historical memory.

Furthermore, the speaker emphasised the challenges facing universal jurisdiction processes, including the gathering of evidence, international judicial cooperation, and the internal legal constraints of states. He explained that, whilst universal jurisdiction has gained recognition, its application requires meticulous strategies and constant coordination with national and international actors to ensure effective outcomes.

In this vein, he highlighted the central role of victims and human rights organisations in triggering these processes. He noted that the documentation of violations by the victims themselves and the filing of complaints before national courts have, in many cases, been the driving force behind proceedings that would otherwise not have taken place. He emphasised that the sustainability of universal jurisdiction depends on maintaining legal, media and political pressure in a consistent and well-founded manner.

The speaker also addressed the evolution of universal jurisdiction legislation in various countries, noting that whilst some laws have been repealed or restricted for political reasons, the global trend points towards a standardisation and harmonisation of the requirements for their application. He cited recent examples in Europe and Latin America where specialised units have been established to

investigate international crimes, facilitating the implementation of structured and strategic processes.

Brody emphasised that universal jurisdiction does not replace national justice systems, but rather complements them when these fail or fail to act. He noted that the principle must remain an exceptional mechanism, avoiding both its trivialisation and its political instrumentalisation. He stressed that every successful case contributes to consolidating legal standards and strengthens the scope for action in future proceedings.

During the question-and-answer session, Brody addressed concerns regarding the political limits of the principle, coordination with other international mechanisms, and the possibilities for expanding its application in current conflict contexts. He concluded by highlighting that, despite the challenges, experience shows that perseverance and strategic coordination enable universal jurisdiction to generate concrete results, consolidating its role as an active tool against impunity and reaffirming the fundamental values of international criminal law and human rights.

In the final presentation of the conference, **Alessia Schiavon** addressed the contemporary challenges facing universal jurisdiction and its potential for consolidation as a tool against impunity. Her presentation focused on the need to strengthen this principle in an international context characterised by geopolitical shifts, institutional constraints and economic challenges. She emphasised that the continuity and effectiveness of universal jurisdiction depend as much on political will as on the availability of adequate human and financial resources.

She noted that, unlike the post-war period, the current situation presents a more complex scenario, where the development of universal jurisdiction requires regulatory adaptations and international cooperation. She highlighted recent examples in Germany and Denmark, pointing out how legal reforms have enabled the scope of this principle to be broadened, demonstrating that there is a degree of political interest that can favour its strengthening.

A central point of his speech was the importance of international cooperation and technical and professional resources. He noted that, for universal jurisdiction to function, an ecosystem of actors is necessary: committed judges, specialist lawyers, civil society organisations and victim support platforms. She highlighted the example of Argentina, where the handling of complex cases requires coordination

across different cultures, languages and legal systems, as well as sufficient resources to investigate and sustain proceedings over the long term.

The speaker also emphasised the need to involve civil society to build trust and commitment to international justice. She explained that universal jurisdiction does not depend solely on specialists, but requires raising awareness among students, citizens and professionals from various fields. She highlighted the importance of events, conferences and outreach platforms that help bring cases to light and strengthen collaborative networks among global actors.

Among the notable advances, she mentioned structured cooperation in investigations, as well as the creation of accessible courses and digital platforms on universal jurisdiction being developed by FIBGAR. She noted that these resources aim to educate and train, promote a gender perspective and facilitate access to information on active cases, helping to consolidate a more robust and sustainable legal ecosystem.

She also noted that one of the greatest current challenges is to restore the trust and interest of the public and professionals, ensuring that universal jurisdiction is not perceived as a distant or inaccessible mechanism. She emphasised that education, training and outreach are essential to ensuring that the principles of international justice remain alive and are effectively applied.

During the Q&A session, topics such as raising awareness among civil society, human rights education in schools and universities, and the application of universal jurisdiction in specific contexts, such as Argentina, were addressed. Both Reed Brody and Alessia Schiavon agreed on the need to combine technical action with social mobilisation strategies, highlighting Argentina's historical role in accountability and the importance of creating spaces where these issues can be debated openly and inclusively.

In their responses, they emphasised that universal jurisdiction requires international coordination and institutional strengthening, as well as communication strategies that bring justice closer to the public. They concluded that, although the path is complex and not linear, every precedent and every educational initiative contributes to consolidating standards and maintaining universal jurisdiction as an active mechanism against impunity, in line with the values of international criminal law and human rights.

CLOSING REMARKS AND ACKNOWLEDGEMENTS

The closing session of the conference concluded with a message of thanks to all the individuals and institutions that made the event possible, emphasising that progress in the field of international criminal justice and human rights depends on the collective commitment and constant work of many people who, often quietly, drive initiatives for the benefit of society as a whole. In this regard, attendees were encouraged to continue collaborating and to remain actively involved in future opportunities for training, reflection and the dissemination of knowledge on universal jurisdiction.

Likewise, the ethical responsibility of those working in the legal field was emphasised, recalling that law is not merely a technical discipline, but a profoundly human one, oriented towards the protection of victims. Special thanks were extended to civil society organisations for their participation, as well as to the International Federal Justice and Human Rights Commission for its sustained work, with an invitation to continue strengthening these spaces for exchange and commitment to the fight against impunity.

CONCLUSIONS

The conference identified a number of key insights into the current state of international criminal law. Firstly, it was highlighted that this field is undergoing a process of qualitative redefinition, in which its legitimacy, effectiveness and ability to adapt to new forms of crime are being debated. In this context, the idea of a dynamic complementarity between the different levels of justice—national, regional and international—was consolidated, understood not as isolated spheres but as interdependent mechanisms which, when properly coordinated, help to reduce the scope for impunity.

Likewise, the presentations underscored the importance of preserving the independence of international criminal justice in the face of political and geopolitical pressures. It was highlighted that the system's main difficulties stem not so much from a lack of rules, but from the resistance of certain state and non-state actors to submit to common standards of accountability. At the same time, the debate highlighted the need to update the conceptual framework of international criminal law to address new challenges, such as the criminal liability of legal persons, the

possible criminalisation of gender-based apartheid, or the effective incorporation of a gender perspective and the centrality of victims in justice processes.

In general terms, the Congress reaffirmed that international criminal justice constitutes an indispensable tool in the fight against impunity for the most serious crimes. Speakers agreed that its effectiveness depends both on cooperation between jurisdictions and on the active defence of judicial independence and institutional strengthening. At the same time, new lines of reflection on the future of the system were raised—ranging from the responsibility of transnational economic actors to the expansion of legal categories linked to structural violence—confirming that international criminal justice is an evolving project that requires sustained commitment from institutions, legal practitioners and civil society.

FUNDACIÓN INTERNACIONAL BALTASAR GARZÓN
MARCH 2026

¡Thank you!

Thank you for taking the time to read this conference report. If you have any questions or would like to discuss our findings further, please do not hesitate to get in touch.

www.fibgar.org

contacto@fibgar.org

FIBGAR ICAB ADVOCACIA BARCELONA

MINISTERIO DE ASUNTOS EXTERIORES, UNIÓN EUROPEA Y COOPERACIÓN
SECRETARÍA DE ESTADO DE ASUNTOS EXTERIORES Y GLOBALES
DIRECCIÓN GENERAL DE NACIONES UNIDAS, ORGANISMOS INTERNACIONALES Y DERECHOS HUMANOS