n an omnipresent media environment, international judges should consider the role they play in communicating their work and decisions to the public.

That was the message of the session “International Courts and the Media: The Dilemma of Public Scrutiny,” presented by Edward Lazarus, president of Lazarus Strategic Services. Lazarus has conducted extensive public opinion research on the civil justice system in the United States and provides strategic, political, and consulting services to the legal community.

In his introductory remarks, Lazarus outlined the distinct layers of public opinion that international judges face. First is the less than one percent of the general population that is familiar with international law. Then there are the opinion leaders and media who make up about 10 percent of international judges’ audience, followed by the informed public representing about 15 percent. The remaining 75 percent are “real people,” who worry about basic life needs and are less informed about the work of democratic institutions.

Criticism of those institutions is appropriate from any audience, but if dissatisfaction is high enough the system changes, Lazarus said. Courts often protect what is unpopular and must decide how to face the resulting fallout:

Courts find themselves in the situation where, because they’ve done the right thing, they stand up to severe criticism publicly. How do you deal with that paradox? If you ignore it entirely, you lose your legitimacy. If you are too responsive, then it could start to influence the way you do your work.

In the discussion that followed, one participant noted that judges do not and should not go public in defense of their decisions. Lazarus responded that courts can still structure their responses in such a way as to communicate with the public, for example through summaries of their judgments or public information offices that are accustomed to reaching a larger audience.

Another way that courts can communicate their work is through technology, as one judge outlined. The European Court of Human Rights has recently started offering webcasts of hearings, providing access and transparency that will serve the public interest:

Ninety-nine percent of people in the Council of Europe never see court in session. But if it’s online, people anywhere can see the affairs of their country being dealt with. This will have a very educative effect on the countries of the Council of Europe. Also, it’ll make it hard for governments to mislead their people.

Lazarus noted, however, that “real people” will likely not understand the business of the court even if proceedings are offered online. He urged participants to think: “How can I communicate this in a way that’s quickly, simply, commonly understood?” He also advised that each court communicate an overarching principle in its press releases on individual cases.
In the case of the International Criminal Tribunal for Rwanda, the challenge of communicating with the public is magnified by the tribunal’s location in Arusha, Tanzania, far from where the genocide took place. In the early years, the people of Rwanda questioned the effectiveness of the tribunal, said one participant. In response, the tribunal launched an outreach program, establishing an information center in the capital of Rwanda that broadcasts the proceedings on television.

In contrast, the Special Court for Sierra Leone is located in the country in which the crimes under consideration were committed. According to one participant, that court employs a press officer who works with the senior advisor to the trial chamber and the presiding judge. “In controversial decisions, we’ve done our best to enlighten people on why it was decided this way,” said the judge.

Participants also discussed how media interpret proceedings from international courts. Media outlets typically present information to the 75 percent of the public with little knowledge of the courts. But some judges contended that the media do not do a good job of it. As one said:

> International courts don't attract a lot of media except in huge cases. These don't happen often, so when it does the media aren't ready for it and don't handle it well and don't really know what the international courts are. It can be extremely misleading. The decisions are skewed and misinterpreted.

Judges discussed what they can and should do to educate the media in order to convey an accurate message to the public. Some advocated offering more simple language in their summaries while others cautioned against it. “We can try to put our judgments into simple language, but it’d be very hard to preserve the quality of the legal reasoning,” said one.

One participant argued that judges should not let the media influence the way they work. They should remain strictly independent from media outlets:

> I don't think we should care about the media. You should do what your conscience tells you. Have honesty and integrity with them, and they shouldn't misinterpret it.

But Lazarus argued for the benefits that would come through interdependence with the media and the public more generally. International courts do not operate in a vacuum; they need the support of the public in order for their institutions to maintain legitimacy. Judges were urged to explain the importance of their work in a concrete fashion and to present the court’s statement of purpose in a simple way. Repeat that message again and again and it will stick, he said. “I hope you realize that eventually it does make a difference,” Lazarus said. “It takes a long, persistent effort, but it's worth it.”

The development of the international judiciary as a distinct professional group

Over the past two decades, the number of individuals serving as international judges has grown with the rapid development of the international justice system. In addition to the 15 members of the ICJ bench, international judges are now hearing cases and making decisions on a diverse range of issues on the benches of courts and tribunals in Europe, Latin America, and Africa. The judges hail from many countries, reflecting different linguistic, professional, social, and political backgrounds. They have been educated in distinct legal traditions, and sit on courts with widely varying jurisdictions and missions. Despite these apparent differences, judges share a remarkable sense of commonality and shared purpose about what it means to deliver justice in the context of an institution that serves an international purpose, one crossing national boundaries and sometimes spanning continents.

Since 2002, the Brandeis Institute for International Judges has brought together members of the international judiciary for discussion and reflection about their unique work. Those events have shown that international judges are generally animated by a desire to bridge their many differences in
the interest of delivering the best justice possible. Their diversity, instead of acting as a weakness, has become a strength, as individuals bring with them to the bench the wide range of skills, backgrounds, and knowledge necessary to tackle the kinds of cases that international courts deal with on a daily basis. As one court president expressed it, members of his bench are able to “start working together and reconcile their differences in order to form a united approach to justice.”

The BIIJ has furthermore inspired the researching and writing of a book focused specifically on international judges, by convenors Daniel Terris and Leigh Swigart, in collaboration with Cesare P. R. Romano. *The International Judge: An Introduction to the Men and Women Who Decide the World’s Cases* views its subject through the lens not only of law but also those of history, international relations, and anthropology. The result is a portrait of the international judiciary, one broad enough to encompass judges sitting on courts as different as the International Tribunal for the Law of the Sea, the Inter-American Court of Human Rights, and the UN ad hoc criminal tribunals. The portrait also provides details about the views and experiences of the men and women who serve on such benches, drawn from more than 30 in-depth interviews with judges, carried out by the authors. Profiles of five judges give the reader an even clearer picture of the professional trajectories, challenges, and perspectives of individuals who serve on international courts and tribunals. Thematic chapters treat a number of pertinent subjects, including the working environment of international judges in courts around the world, the challenge of carrying out work in multiple languages, the necessary but sometimes problematic interdependence that exists between judges and their courts’ administration, and issues of politics and ethics in the courts.

Participants at BIIJ 2007 discussed the emergence of a professional identity associated with the international judiciary. They suggested other aspects of the international judiciary that might be explored, such as varying views on the nature of the judicial function among international judges, the differences in outlook that exist between those who serve on part-time and full-time courts, and how the decisions of international courts are implemented.