

Rome Statute Review Conference- General Assembly Debate Presentation

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Your Excellencies,

1. *Introduction.-* Latin America has been a strong supporter of the Rome Statute of the ICC. Since the adoption of the treaty, 15 out of 19 Latin American countries have become State Parties. At the regional level, the Organization of American States has adopted, since 1999, annual resolutions on the promotion of the ICC, as well as guiding principles on judicial cooperation with the Court. These are small yet significant steps toward strengthening and ensuring the integrity of the Rome Statute.

In this sense, we would like to encourage the governments of Cuba, El Salvador, Guatemala and Nicaragua to ratify the Rome Statute, in order to have a Latin America that is fully supportive of the ICC. In addition, we would also make a call for a vigorous push toward universal ratification. This is not only a noble task; it is the right goal to achieve.

2. *Implementation.-* Despite the regional commitment for a strong and independent Court, there is a need to continue working on the full implementation of the Rome Statute. In the case of Latin America, national legislation could best be described as a *chiaroscuro* situation. On one hand, there has been significant progress concerning the adoption of specific crimes, namely genocide, forced disappearances and torture as well as the core principles of International Criminal Law. However, there is a deficit in the implementation of the other crimes against humanity established in Art. 7, war crimes and especially judicial cooperation with the Court.

Your Excellencies, as it has been stated during the General Debate by all of you, without effective cooperation, the ICC will not be able to fulfill its mandate.

Therefore, we would ask the Assembly to effectively execute the “Plan of Action on Promoting Universality” and work with State Parties to fully implement the Rome Statute, as a means to consolidate the rule of law.

3. *Impact of the Rome Statute and ICL.-* Your Excellencies, the prosecution of crimes against humanity in Latin America would not have been possible without the work of the Inter-American Court of Human Rights. An institution that has developed a judicial cross-fertilization between International Human Rights Law, International Criminal Law and to a lesser degree, International Humanitarian Law to address human rights violations.

Although the cases examined by the Inter-American Court are different than those that fall within the jurisdiction of the ICC, the Rome Statute has been a source of inspiration and for the determination of State duties regarding the protection of human rights. Under a systemic interpretation of the rights to life, dignity and personal integrity, a judicial framework has been developed to fight impunity against gross violations of human rights.

Mr. President, I can gladly state that such framework has been interpreted, developed and implemented by national courts. Some of these set rules include:

- The inapplicability of blanket amnesties, pardons and other measures oriented to avoid criminal investigations;
- The right to truth as a means to ensure an effective and active participation of victims in judicial proceedings; and
- The irrelevance of personal immunity *vis-à-vis* the perpetration of international crimes. This principle, acknowledged in the Rome Statute and in continuous rulings of the Inter-American Court, was applied during the *Fujimori* trial that took place in my country, Peru, over a year ago, consolidating the rule that nobody, nobody is above the law, especially when they are responsible of planning or executing international crimes.

Your Excellencies, to conclude, the Andean Commission of Jurists welcomes the stocktaking process and urges States to foster judicial cooperation mechanisms, including the role of Supreme and Constitutional Courts as well as regional human rights tribunals. We also call upon all States, and particularly those in Latin America, to adopt specific pledges that will bolster the capacity of the ICC to function effectively and continue the advancement of victims' access to justice and gender equality.

The set of collective agreements subscribed this morning is a positive step in the right direction and we hope to see its full implementation come to place.

Thank you Mr. President.

Muchas gracias.

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