

First Anniversary

International Criminal Court Entrance into force Rome Statute

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The Statute of the International Criminal Court (ICC), the judicial body which has now been in existence for a year, was approved on 17 July 1998.

The ICC represents the first peacetime attempt to provide a permanent response to the most degenerative phenomena in times of war or peace, embodied in the most heinous criminal figures inflicted upon the international community. The undisputed target of this peace initiative is the eradication of all “lawless spaces”, customarily protected by the sidelining of justice tribunals in cases of terrorism, genocide, war crimes or crimes against humanity, which have so proliferated in recent times: some acts by terrorist organisations – article 7 Statute of the ICC – can and must be judged by this judicial court.

In fact, the certainty of the sanction imposed by an independent tribunal, above political influence, which hands down its judgements independently and according to the rules of law, represents the best guarantee that standards will be set and hence that its deterrent effect will remain clear and unequivocal.

However, the ICC will be unable to stop the mass violations of human rights, its investigations will not end the excesses committed by States at the hands of their leaders, and not all cases will be subjected to its jurisdiction. Nor will those crimes committed on the territory of a country which has not ratified the Statute, nor will those which are assumed by national jurisdictions (the principle of complementarity) – which is why it is so important for national legislation to include the principle of universal justice, in order to enact the principle “aut dedere aut iudicare” (either extradite or try), and to guarantee the removal of impunity.

The Preamble to this Statute reads: “... Mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity, ... Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes, ... Emphasising that the International Criminal Court... shall be complementary to national criminal jurisdictions,” this International Criminal Court is established to prosecute the crimes of genocide, crimes against humanity and war crimes or those described as crimes of aggression.

At the Opening Session of the Nuremberg Trial on 20.11.45, Robert Jackson, the US Chief Prosecutor to the International Military Tribunal, on reading out the

arrest warrant on behalf of the team of Prosecutors appointed by the four victorious powers, uttered these memorable words:

“Unfortunately, the nature of these crimes is such that both prosecution and judgment must be by victor nations over vanquished foes. We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well.”

The lesson from this declaration is that an International Criminal Justice, in order to be just that, must be a justice for all and equal for all.

I am convinced that the ICC will become an agile court, with effective and dynamic mechanisms in the Prosecutor’s Office, uniting the principles of legality, efficacy and prompt justice so that the response to victims comes within a reasonable timescale and that it truly puts an end to impunity. Sooner or later, countries such as the members of the United States will realise that the best option for peace is the ICC and they will join our ranks.

For those of us who believe in International Criminal Justice, the creation and operation of the ICC is a triumph of Justice and of Peace. It is up to us to demand that this great initiative by humanity does not become a failed reality. It is a time of hope, and as the Spanish poet Antonio Machado said: “Today is always still.”