

BRIDGE TO THE FUTURE

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“The bridge to peace rests on pillars of justice”

Sang-Hyun Song, President International Criminal Court

It is a great pleasure to be here today to address the fourth Bridge to the Future conference. I would like to thank Mrs. Sophie Lambrechtsen and Mr. Dick van der Meer for inviting me to speak to you.

I have recently been learning more about the Dutch suffering in the Second World War and many stories remind me of experiences in my own region. Many countries in Asia suffered a grueling occupation and horrible destruction in the same way as you have here. As a young boy I have also seen the horrors of war and I intend to share more about that with you later.

I have tremendous respect for the heroism that many people here or their loved ones undertook in the fight for liberty. I praise the organizers for honoring their memory by connecting their history to modern efforts to create a more peaceful future for all.

After the Second World War, the world had to rebuild itself. Not just mentally and physically, but also morally. The world realized that it is not abstract entities that murder innocent civilians, but individuals. And from the death and destruction, a powerful movement emerged: to hold people individually accountable for the crimes they committed. Tribunals were set up in Nuremberg and Tokyo and perpetrators were brought to justice.

To understand how revolutionary this development was, you need to realize that until not so long ago international criminal justice was a mere afterthought to peace, if it was thought of at all. The history of modern international law extends over some 400 years. Your compatriot Hugo de Groot [*you- go da grow-t*]- whom we international jurists know by his Latin name Grotius – famously said: “where judicial settlement fails, war begins”. But for centuries afterwards, it was only states that were the primary objects of law. This was the predominant reality even with the end of the Second World War. Through its Security Council, the new United Nations could create law binding on states. The International Court of Justice offered a mechanism to resolve legal disputes between states.

But the ravages of the Second World War lent momentum to making individuals, too, subjects and objects of international law. Adoption of the Genocide Convention built on the achievements of Nuremberg and Tokyo. International criminal law advanced with recognition that the darkest crimes should be answered with fair, impartial trials. And so from the darkness of destruction, a fragile seed was planted that could bring the light of justice to future generations.

Then almost immediately the Cold War froze for decades the expectation of accountability for war crimes, crimes against humanity and genocide. The world was largely polarized into two opposing camps, and there were numerous proxy wars. Justice in these contexts could hurt the interests of one side or the other. And so there was justice for none. Mass atrocities in such places as Uganda and Cambodia went unpunished. The victims were ignored. Leaders did not expect to be held individually accountable. Peacemakers knew not to try. All too often, the atrocities continued.

The Cold War eventually did end. Human capacity for barbarity did not. Now, however, the international community could agree on justice for some victims and some perpetrators. There were new trials, for atrocities committed in such places as Rwanda, Bosnia, and Sierra Leone. This new factor complicated peace processes. It led some to suggest that peace and justice were at odds.

Yet politicians and diplomats began to avoid those accused of grave crimes. Presidents and rebel leaders began to consider the reality of legal accountability. For some victims, perhaps, seeing justice done meant they would not seek violent retribution.

Uncomfortable truths revealed in court testimony perhaps led some ex-combatants to question the causes for which they had fought, and made them less likely to fight for them again.

Building on these encouraging developments countries began to work on creating a permanent tribunal, the International Criminal Court, or ICC. The Rome Statute, our founding document, was signed in 1998. Already in 2002 enough countries – including your own – had ratified it, allowing the ICC to become operational. Today there are 110 States Parties. Just yesterday we celebrated the joining of Chile and next week the Czech Republic. This means that all of the European Union and all of South America have now signed on.

If the governments of these states are unwilling or unable to deliver credible justice for atrocities committed on their territory or by their citizens, the ICC exists as a court of last resort. Three countries have already used this option: Uganda, the Democratic Republic of the Congo and the Central African Republic. Each now has cases before the ICC. In addition, when the UN Security Council determines that international peace and security are threatened, it may refer any situation to the ICC. In 2005, it did so when it referred the situation in Darfur, Sudan. Three arrest warrants have been issued for that situation.

I am only a six month old President of this Court, but I am truly proud of the legacy I have inherited. The ICC is permanent. It has wide geographical reach. Its judicial activity is now apparent and well respected. Some suspects are hiding in jungles to avoid being brought to trial. Others, although remaining in plain view, have restricted their travel for fear of arrest. Accountability for atrocity crimes has become a real possibility for a broader range of situations. Victims have reason to hope that their tormentors will answer for their crimes and they are ready to testify in our courtrooms. All can see that fair trial rights of the accused are defended.

Naturally, the judicial activities of the ICC have also generated political interest. Some accused of crimes have reacted to these developments with self-interested political attacks on the ICC. More importantly, among others, the ICC's activity may have caused modifications in behaviour. The United Nations, which I visited last week, has indications that fear of prosecution may have led some would-be perpetrators to refrain from the commission of atrocities in the first place. If only one warlord has decided to release his child soldiers, then the ICC can already be deemed a success.

But I have an aspiration that goes beyond this. I welcome the day when all countries will be part of the Rome Statute. This would not mean that all atrocity crimes would come before the ICC. Under the Statute, states have the first responsibility to investigate and prosecute these crimes themselves. This is the second important part of my desire for the future: that all states develop the capacity and will to prosecute war crimes, crimes against humanity, and genocide. With the further development of the ICC and national infrastructure, greater expectation of justice can increasingly deter crimes from being committed in the first place.

In this course I feel greatly supported by this great country. The Netherlands has always been committed to the rule of law and international justice. From your desire to build a rules-based European Union to your support for the ICC, you have shown leadership in building a new world order on the ruins of war. Two days ago, the Dutch foreign minister, Maxime Verhagen argued against the notion that justice can endanger peace or that peace should have priority over justice. He said: “Peace and justice go hand in hand. Without justice there simply can be no lasting peace.”¹

This is a vision that is only slowly taking root around the world and the leadership of Minister Verhagen and others will be crucial to maintain support for this young notion of international justice and the young International Criminal Court.

¹ Maxime Verhagen, “Fighting Impunity in Peacebuilding”, speech at the Ministry of Foreign Affairs, September 16, 2009.

This task is enormous. But I take courage from the peace that took root in the soil of the fierce conflict waged here in The Netherlands 65 years ago. I also take courage in another such transformation.

In 1950, war broke out in Korea, where I am from. I was nine years old. For three months, during the battle for Seoul city, my family was hiding in an underground bunker. Every day, I was responsible for emerging from the bunker to bring food. To do this, I had to walk about 16 kilometres. I will never forget passing hundreds of bodies, lying on the streets. I still remember the terrible smell in those hot summer months. At times I encountered street battles, but each time I was fortunate enough to get away. I was too young to be mobilized for war, but old enough to realize its horrors.

At the time the war started, only one bridge over the Han River connected the Seoul city's north and south. A few days into the war, the South Korean government decided to bomb the bridge to stop the military advance of the North Korean army. The destruction of the bridge may have achieved this short-term military goal. But it left millions of people, including my family, trapped in the city, unable to escape.

UN intervention in my country paved the way for peace. Every Korean schoolchild can recite to you the countries whose soldiers came to fight under UN flag to protect our freedom. The Netherlands was among them, and more than 120 of your countrymen lost their lives for my country. Earlier today, I had the honor of meeting two of the Dutch veterans from that conflict, and thanking them in person for their sacrifices. *(They are here now. I would ask you to join me in applauding them).*

Today there are more than 20 bridges in Seoul. These structures are testimony to the remarkable human ability to cross from a violent past to a prosperous and peaceful future. But the pain felt in Korea in 1950 and at this place in 1944 is still experienced in many parts of the world today.

The memory of this pain and the beautiful commemorations this week will continue to inspire the drive for peace and the development of international justice. Though we have a long way to go, in this place and others we have seen that great things can arise out of the ruins of war. Where war and atrocity persist today, a similar bridge to peace will rest on pillars of justice.

Thank you.