

ANDRAS VAMOS-GOLDMAN: My name is Andras Vamos-Goldman. I'm currently with the new Institute of Global Issues at the University of British Columbia, in Canada.

Mr. Prosecutor, I would first like to join those speakers previously who have congratulated you and your team for the excellent documentation that we've received and for this process.

There were many expectations that were building up as we were awaiting you to take office, and I know that while many people had hoped for something like this, this process was not part of those expectations. So congratulations to you and to your team.

As you know, however, there are a number of other expectations that are associated with the creation of the International Criminal Court, much of which falls on your shoulders. If I had to lump them together, I would say that with the creation of the ICC there has arisen an expectation in the international community that somehow this Court will put an end to impunity, and it will do it in an economically sustainable manner which has not existed in previous generations of international justice institutions. At the same time, you and the Court rightfully expect the international community that has created this institution to come up with the resources for you to be able to do your job. The space between these two different expectations is something that we call the expectation gap.

The documents that you have prepared and your team has prepared so far go a long way in the direction of meeting these very lofty and very difficult expectations, and our presence here as members of the international civil society, that portion of the international community here today, is an indication that we are willing to go with you and meet you halfway.

But in working to close this gap, the expectation gap, you may

have uncovered another gap which I believe should be treated as a priority issue. That's why I've chosen to speak on this part of the discussion. I'm referring to something that's called the impunity gap to which a couple of commentators have already referred earlier.

If I understand it, and this is how I would conceptualise the impunity gap, it refers to that part of the crime-base pyramid which would not be covered if investigations and prosecutions focused only on the top echelon offenders. By indicating a policy direction for the Office of the Prosecutor, that, at least in the cases of massive crimes, focus would be on those bearing the greatest responsibility, the potential, at least the potential for an impunity gap has been highlighted.

While I join previous speakers in fully approving your early indication of such prosecutorial policy, we should also recognise that it will be more difficult to convince public opinion that one is fighting impunity effectively and that one is re-establishing the rule of law when large numbers of perpetrators go unpunished because they do not quite bear the greatest responsibility.

There is a flip side to this impunity gap dilemma, and this is a scenario where those most responsible are prosecuted under the International Criminal Court and, therefore, are subjected to the penalties laid out by the Rome Statute. And there are others with a somewhat lower burden of guilt who may have to face domestic courts often in jurisdictions where capital punishment is still on the books.

I would hasten to add that the policy paper prepared implicitly addresses this dilemma in referring to the various methods of cooperation with states, national criminal enforcement institutions, and civil society, but I would like to suggest that there is room, in fact I think indeed a need, for further and more detailed consideration to develop a

specific policy framework within the Office of the Prosecutor as to how to minimise the negative effects of this inevitable impunity gap. How to deal with those not likely to be indicted by the International Criminal Court should be an integral part of the consideration in a decision to prosecute.

I believe that a whole range of actions exist. For instance, the Office of the Prosecutor could, with the help of other players in the international justice world, work not only to strengthen but possibly also to internationalise domestic justice institutions with the addition of international personnel and standards. In certain cases where reconciliation is vital, other international justice mechanisms such as truth commissions could be employed. Traditional justice mechanisms should also not be ignored.

In summary, I believe that the expectation of the international community regarding the promise of the ICC, if this is to be satisfied and if your very laudable goals of focusing on national institutions to meet their obligations are to be met, one of the policy issues on which more work is required is how to integrate prosecution and national assistance in a way that maximises the possibility to overcome the impunity gap and how to harness the many willing resources available in the international community to help you do this, and we're here to help.

Thank you very much, Mr. Prosecutor.