



(A. 8)

Impunity No More

By Luis Moreno-ocampo

Published: July 1, 2009

THE HAGUE — In 1998, more than 100 states adopted the Rome Statute to end impunity for those crimes that we had thought, over and over, would never happen again, only to see them occur, again and again: genocide, crimes against humanity and war crimes.

The states accepted their shared duty to punish massive atrocities and created a new actor, a judicial actor, on the international scene: a permanent International Criminal Court, which would step in when national courts failed to act.

An independent, permanent court with a global reach was the object of strong debate in Rome and, for some states, a motive to oppose the court.

The drafters of the Rome Statute were not naïve idealists. They were the ultimate realists. In their lifetimes, they had watched the Khmer Rouge kill millions, they had let Srebrenica happen and they had let Rwanda happen. They had failed the “never again” promises of their fathers.

During their careers as political leaders, diplomats and negotiators, they had tried every solution: They shook hands with devils, sent them off to golden exiles, tried to appease them with promises of immunity, power and wealth. Each time they gambled on impunity and each time they lost.

They learned the need to adjust tactics to a lasting solution. By integrating in one justice system states and an independent international court, the drafters provided incentives for states to prosecute the worst crimes themselves. If the states didn't do it, the I.C.C. would.

Less than four years after its adoption in Rome, more than 60 states ratified the statute and it entered into force. In 2003, 18 judges representing the five continents were appointed, and I was given responsibility to be the prosecutor. Together, we had to transform the idea of ending impunity into a reality.

During our first year, we found that the gravest crimes under our jurisdiction were committed in Uganda and Congo. The presidents of these countries decided to refer those situations to the court. One year later, in March 2005, Britain and France spearheaded the U.N. Security Council decision to refer Darfur to the court.



No one could have predicted the speed of this integration between the international system of peace and security and the new permanent system of international justice.

Central African Republic and the Ivory Coast also asked for an intervention by the court. Georgia, a party to the Rome Statute, but also Russia, a non-party, sent the court more than 3,000 communications regarding allegations of war crimes committed in Georgia. This year, the Palestinian National Authority accepted the jurisdiction of the court. A month ago the Arab League sent the court its first-ever fact-finding report on crimes committed in Gaza.

Supported by dozens of states — parties and nonparties — we are investigating those most responsible for the most serious crimes and collecting evidence in ongoing conflicts. As a result, the court has issued 13 arrest warrants and one summons.

The days of fearing a frivolous court are over. But there are new challenges created by a serious, operational institution. Arrest has become the biggest test. Some individuals sought by the court are enjoying the protection of their own militias, such as Jean Bosco Ntaganda in Congo. Others, like President Omar Hassan al-Bashir and Ahmad Harun of Sudan, are officials of governments eager to shield them from justice.

They are still committing massive crimes. But their destiny is to face justice. The court is not going away. But the victims do not have the luxury of time. In Congo, in Darfur, rapes — rapes of women, rapes of girls — are destroying entire communities, entire generations, now.

There is hope. Congo executed arrest warrants against three militia leaders for enlisting child soldiers and making sexual slavery a weapon of war. Belgium has executed on its territory an arrest warrant against Jean-Pierre Bemba for his massive campaign of rape and pillage in the Central African Republic. The first trial is under way and a second and third are starting soon.

Decisions of the I.C.C. are felt well beyond the courtroom. The monitoring of allegations of crimes that my office is conducting in Afghanistan, Colombia, Ivory Coast, Kenya, Palestine and Georgia can promote national justice efforts. Colombia is prosecuting hundreds of paramilitaries and guerrillas. In Kenya, our existence triggered discussions on accountability for crimes committed during the last elections. Impunity is no longer an option. Armies around the world, even from non-signatory countries, are adjusting their standards and rules of engagement to the Rome Statute. This is the way to prevent crimes. The law makes the difference between a soldier or a terrorist, a policeman or a criminal. Ratifications keep growing. This week, Chile becomes the 109th state party.



But universal ratification is required to apply one standard all over the world. Today the court has no jurisdiction to investigate alleged crimes committed in Iraq, Lebanon, Sri Lanka, Burma or Somalia.

The states of 1998 supported the idea of the court. The states of 2009 are beginning to show the leadership required to implement the concept. They are aware that the court has a strong constituency: a new generation of global citizens in the making. Thousands of teenagers and 20-somethings from different countries, gathered in a group called “Invisible Children,” are calling for the execution of the I.C.C. arrest warrant for Joseph Kony, the leader of the Lord Resistance Army, a man who abducted thousands of children in the last 23 years, turning boys into killing machines and girls into his so-called “wives.”

Step by step, the Rome Statute is in motion, moving ahead. Even critics of the court are talking about ending impunity. Sometimes the process is painful and sometimes it is controversial, but it is changing international relations forever. Luis Moreno-Ocampo is the prosecutor of the International Criminal Court.

* * * * *