

UNITED NATIONS/CONFERENCE ON THE INTERNATIONAL CRIMINAL COURT: SPEECH OF CHERIF BASSIOUNI

New York, December 1, 1997

Mr. Chairman, President Robinson, Congressman Gilman, chairman Bos, ladies and gentlemen. You're all here because you are committed to the idea of establishing an International Criminal Court. You are therefore quite familiar with the issues that confront it, and what lies ahead. I would like to once more reiterate the importance of making sure that justice is not separated from peace, nor peace separated from justice, nor that justice be sacrificed at the altar of realpolitik. After WWII, we heard, and we keep hearing the promise of "never again" but that promise has yet to be redeemed. Since WWII, we have witnessed depending upon how you want to count, some 250 conflicts, which have produced an estimated 170 million casualties. The numbers are far too big to be able to absorb or understand, and twice as many as those killed in WWI and WWII put together, by the largest possible estimates. But as time proceeds it seems that the numbers increase, and along with the increase in numbers, so does our sensitivity. It becomes like those who are addicted to drugs; you always need a little more to satisfy your needs, you always need greater numbers in order to be able to awaken your interest.

I think that one of the experiences that marked me more than anything else is when I was chairing the committee of experts to investigate violations of international humanitarian law in the former Yugoslavia, and we were conducting a rape investigation, and at a certain point we had numbers, well, we had 575 women who gave us affidavits, and we interviewed 223 victims. Our 575 victims gave us the names and descriptions of over 1400 other victims, and from there we made a projection as to the number of people who were killed, and I remember sitting in a variety of circles - diplomatic, governmental, political and others- and the big question was: was the figure of 20,000 we had projected reasonable or not, and was it really something to be so concerned of if it was something below the 5,000 figure?

Now, this type of argumentation can only be made by those who've never been a victim, or met a victim, by those who've never seen a mass grave, talked to somebody who was tortured, or seen

a woman who was kept for against her will for months and raped by all sorts of individuals. In the abstract, in the tall glass building overlooking the Hudson, or anywhere in the world, when divorced from reality, it is easy to say “Is that number significant?” It is hard to conceive that one is too many.

And yet, we have become accustomed, we have accepted 170 million people killed since WWII. Look at what happened, whether you’re speaking of Cambodia or Rwanda or the Great Lakes or contemporary events or prior events, Biafra, Bangladesh, you name it - there isn’t a region in the world in which some atrocity ranging from one hundred thousand to a million people have been killed. And yet, what has been our reaction? I shouldn’t say our reaction. What has been government reaction?

Government reaction has usually been: let’s see how we can settle this problem. Let’s see how we can solve it. And the best way of solving it has been by making a political deal with the very leaders who have committed those terrible atrocities. That, I am told, is called “realpolitik”. To think otherwise, I am told, is to be unreasonable, unrealistic, impractical. One has to make the deal with those worst individuals in order to get peace. And so peace is placed in contraposition to justice.

I dare say that most of the people on the streets, as President Robinson was saying, refute that. Most of the people who have a basic common sense of justice would say “no, peace and justice are not in contradiction; impunity is not the price that we have to pay for a political settlement; and we don’t have to reward those who commit such major crimes with impunity and sometimes, with a golden parachute to retire somewhere.”

Are we placing too much hope in the establishment of a permanent International Criminal Court? Maybe we are. But maybe the court is more of a symbol than anything else. Maybe the court will not be able to prosecute the major leaders who commit those crimes. Certainly, it will not be able to prosecute most of the people who commit these crimes, but it will be symbolic of the will of the peoples of the world that some type of gesture supporting justice and against these types of activities be established. And in that respect, we must be vigilant to make sure that we do not simply have a court, and that we have an independent, effective, impartial and just court that functions, and I repeat, functions well, and that is not manipulated by major governments or

major powers or major institutions, that acts in the same way that we have all come to expect from national justice systems throughout the world. that is a big challenge, and as President Robinson was saying, we have still to finish the PrepCom; we have to do the diplomatic conference; we have to go through the ratification process; we have to pass implementing legislation; we have to support the establishment of a bureaucracy, even though that word is a pretty nasty word in some circles, but you have to do it to make the court function. Let's take things a step at a time. After WWI we wanted an International Criminal Court and it was not established. After WWII we had Nuremberg and Tokyo and we wanted a permanent court. It was not established. We are now going to have a court. What we need to do is concentrate on the next stage, and the next stage is Rome. At Rome we must complete the diplomatic conference. We must not allow those who do not wish the court to come into being to delay, postpone, procrastinate and remand any part of the diplomatic conference in Rome to another time and another place. If we stick to the schedule, and we have a treaty at the end of the diplomatic conference in Rome, we will have achieved a momentum that will be difficult to roll back by any of those who would want to postpone the establishment of such a court.

Thank you.

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