

INTERNATIONAL COURT FOR WAR CRIMES: A SLOW PROCESS

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May 2 is the Jewish Holocaust's day of remembrance. As we honor that memory, we must keep faith with the victims of this and similar tragedies and prevent their recurrence.

World War I, which left more than 20 million casualties in its wake, was to be "the war to end all wars." However, a relatively short time later the world found itself embroiled in a conflict of wider proportions. After the atrocities of World War II were revealed, a new promise emerged: "Never again." Since then, some 250 international, regional and internal armed conflicts have occurred. These, along with large-scale victimization perpetrated by repressive regimes, have produced casualties estimated at between 70 and 170 million deaths. These consequences of genocide, crimes against humanity, war crimes and torture are almost beyond comprehension. Regrettably, most of the perpetrators have benefited from impunity instead of being held accountable for these international crimes. These terrible realities must be addressed so that we are not condemned to witness their repetition.

Since the trial of the Nazi leadership at Nuremberg, governments have for the most part continued the convenient practices of realpolitik, whereby accountability and justice are bargained for political compromises. One of the outcomes of this approach has been that international crimes such as aggression, genocide, crimes against humanity, war crimes, slave related practices and torture, have increased in almost all parts of the world. Moreover, governments in a position to prevent or

mitigate these tragic events, or to pursue restorative and retributive justice, have regrettably for the most part remained passive, indifferent and at times even supportive of regimes engaged in these practices.

International civil society has increasingly expressed its growing discontent with the practices of granting impunity to the leaders who ordered the commission of atrocities and to senior commanders who carried them out. But, as the demand for justice is increasing, real-politicians can hardly overlook it.

Since World War I, five international investigative commissions and four ad hoc international tribunals have been established. These tribunals were set up by the victorious to try the vanquished, even though those who were tried deserved it. The United Nations' Security Council in 1993 and 1994 set up tribunals for the Yugoslavia and Rwanda conflicts. These ad hoc commissions and tribunals have benefited from the support of governments motivated by humanistic values and by governments who recognized the importance of criminal accountability as a way to preserve world order. Nevertheless, international action has not been consistent, and the Security Council has failed to act in the aftermath of many conflicts, including Cambodia and Sierra Leone. These conflicts have resulted in an estimated 2 million Cambodians killed and 300,000 people slain in Sierra Leone.

The pursuit of international criminal justice on an ad-hoc basis is less than satisfying because it does not treat all who commit the same crime in the same way. To avoid the pitfalls of ad-hoc justice, international norms and standards for accountability need to be clearly established and consistently applied by a permanent international criminal court.

International accountability for genocide, war crimes and crimes against humanity is necessary to achieve peace and reconciliation between people in conflict torn areas. Indeed, history reveals that there cannot be peace without justice, for the victims will not forget. Above all, when the international community fails to

redress past victimization, it breaks faith with the bonds of humanity. And when that happens, we are condemned to repeat our worst mistakes.

On July 18, 1998, the Rome Treaty on the Establishment of an International Criminal Court was opened for signature at the Campidoglio in Rome and 26 states signed it on that day. Since the end of WWI, the international community has worked for the ICC, and this achievement is to the credit of the United Nations. The ICC will enter into force after 60 states have ratified it. As of early April, 96 states have signed the Rome Treaty, eight have ratified it, and some 30 states have taken initiatives toward ratification. Moreover, several intergovernmental organizations have encouraged their members and other states to sign and ratify the treaty.

As worldwide support for ratification is gaining momentum, expectations are high that the treaty will enter into force by the end of 2002. Regrettably, the United States opposes it essentially for domestic political reasons.

Justice, whether at the national or international levels, never comes easy. It needs constant support and reinforcement. Above all, it needs to be politically independent, impartial toward all persons, fair to the accused and to the victim. Without these characteristics, the ICC will not have the moral authority needed to have its orders respected and also to have the deterring effect on potential future violators. The U.S. can make sure that this happens. Maybe then we can redeem the promise of "never again." President Clinton should have the moral courage to live up to his many speeches in support of the ICC and sign the ICC treaty. It may be his most important legacy.