

The Hague, 17 July 2018

Commemoration of the 20th Anniversary of the Adoption of the Rome Statute of the International Criminal Court

H.E. Mrs. María Teresa Infate, Ambassador of the Republic of Chile to the Kingdom of The Netherlands

Concluding Remarks of the Symposium

1. El tema de nuestra jornada ha sido guiado por el título:

“Enduring Value of Rome Statute to Humanity”

2. En estas palabras finales, me referiré a las ideas comunes a las presentaciones, así como a proposiciones que emergen de algunas de ellas, y temas que merecen ser considerados en nuestras futuras tareas. Tenemos aquí presente a la Corte, sus órganos, los Estados Partes, académicos expertos, la prensa y sociedad civil organizada. Ha habido un intercambio de opiniones abierto y de tono elevado, y procuraré en este comentario seguir el mismo patrón.

Let me first refer to some general ideas that result from today's discussions:

3. By a general debate and two panels, judicial technical issues as well as political and systemic issues have been discussed at length. We express our deepest appreciation to all the participants who have contributed to present a more comprehensive and fair picture of the Rome Statute today.
4. The adoption of the Rome Statute in 1998 represented a “gift of hope to future generations”, in the words of former United Nations Secretary-General Kofi Annan. Today, that promise endures. At the same time, there is widespread concern that this gift of hope is not complete but deserves renovated views on what international criminal justice means amid an ongoing discussion about the universal value of a criminal court.
5. In this session, high-level representatives have highlighted on the lasting significance of the International Criminal Court and

reflections have shown an increasing trend supportive of its current competences and characteristics.

6. But, there has also been the question about whether the international community must revitalize its efforts to renew the ideas that expanded through the nineties to ensure the accountability for the gravest crimes. On the part of States, the responsibility to think of an improved Court and a more efficient procedure is still present.
7. The ICC's decisions originate from a courtroom, but their impact on the affirmation and development of international criminal law go beyond the individual cases.
8. Cases involve opinions and decisions. Although we must observe judicial independence, States and the international community cannot refrain from analysing the issues involved and the way they may impact ongoing situations or deter future conduct.
9. At the same time, a Court does not replace the role of international political organs and of States' policies, but when it has been granted the power to carry out functions of investigation and prosecution in full respect of the legal requirements, the Court deserves not only symbolic support but also tangible tools to pursue its duties.
10. Among the dimensions that the practice renders visible is that the Rome Statute system operates not only through the Court itself but also by means of the Trust Fund for Victims (TFV), both of which are intertwined with the will and aspirations of a highly heterogeneous international community. This unique feature that was widely addressed today is of utmost importance to understand the system created 20 years ago. This may be called the valid expectations of the community affected by grave crimes.
11. We know that to deliver justice for victims and communities affected by the Statute's crimes the Court operates in a complex and evolving political environment. It is thus more important than ever to strengthen the idea of the

possibility to foster common values against the impunity of core crimes and accountability to justice.

12. Another dimension that has been highlighted today is that the Rome Statute connects justice with the domestic systems. As it has been said, the criminal justice system set out by the Rome Statute reverberates at the national level through the principle of complementarity, and its active effect in mobilizing domestic legal instruments.
13. All panellists have taken a look at the accomplishments and results of the ICC's judicial process and assessed ways in which it may be enhanced. At moments, this view may seem more critical because of the length of the proceedings and the difficult adjustment of different legal systems stemming from common law and civil law characteristics.
14. Critical voices may also arise out of regional or national circumstances aiming to take distance with international institutions. Institutions must take note of these phenomena and seek to enhance their own capabilities to persuade and produce changes in the direction that may bring more credibility and respect for their decisions.
15. Regarding announcements of withdrawals from or of non-cooperation with the ICC system, while the precedents cannot be denied, the way we engage with the relevant parties may make a difference in the real world.
16. Looking forward, all participants – including high-level authorities – have expressed hope that this symposium would have helped to better understand the world in which the Rome Statute operates and the needs that are yet to be satisfied.
17. It was striking to listen to one voice that aligned the objectives of the Statute with the preservation of peace. The reparative value of the Court's system was also highlighted.
18. The Rome Statute has entered a new decade and it must continue to expand in terms of participation. In order to ensure accountability for the most serious international crimes, we need to consider the national and international

strategies of States based on the values of the international community.

19. Some of these values are under constant strain. The entry into force of the jurisdiction of the Court over the crime of aggression as of today adds urgency to the search of responses to these questions.

20. Allow me to highlight some salient ideas and reflections that arise out of today's discussions:

- If on the technical side, making the judicial process more efficient and accessible to victims, as well as considering the defence rights and related financial needs, the political and systemic elements also deserve a fair attention as they are essential to State Parties. Cooperation and universality are central in this regard. On the other hand, behind concepts such as efficiency and integrity of the functioning of this Court, there is a third dimension that consists of oversight and accountability.
- These dimensions imply duties not only for the Court but also for States Parties which are subject to the discipline of participating in a highly demanding international judicial system, dealing with crimes whose connotations are to be rejected by all States.
- The opening statement highlighted that there have been achievements over the 20 past years and that there remain challenges for the years ahead. The next question is: Are there existing situations that should attract our attention and towards which the current tools are not applicable or useful?
- What are our ambitions in this respect?
- A wide range of subjects and evolving circumstances are permanently interplaying and affect the way in which we, States, perceive the system and the associated demands. The focus has been placed on the efficiency of the judicial process, participation of victims and assistance to affected communities, cooperation, universality and about the entry into force of the crime of aggression.

21. The way to discharge requests of the Security Council remains one of the central questions when we assess the ICC response to the Council referrals, and we recall the appeal made by one of the speakers of the need for a constructive approach still to be built.
22. Ancillary to the efficiency of States participation and awareness about core situations are the non-governmental organizations which bring an attentive view on matters and remind us not to forget our core duties and to shape policies aiming to enhance the efficiency of our own participation in the Assembly and subsidiary bodies. I need not remind you about the crucial role that non-governmental entities have played to foster the concept of complementarity in a broad cooperation framework.
23. Thoughts on ratifications, accessions and other actions related to the law of treaties have also been shared among us. This is a good moment to underscore that the universal and inclusive character of the Statute is essential for its power and effectiveness. It should never be a Court for a selected number of States but rather a Court for the international community united around core objectives. Again, this requires a constructive approach.
24. On the other hand, the support of States must translate into legal and material means to perform the ICC duties that are embedded in the Statute. Building on arrest strategies of suspects is one of the tools to enhance the effective power of the Court.
25. This means a new engagement with those that do not feel at ease with this special form of accountability and that cannot build an internal consensus to support the participation in the ICC system.
26. It also means reaching out with a positive narrative about the achievements of international criminal justice rendered by the ICC as opposed to the limited vision that turns around numbers of cases and indicted persons.

27. The value of regional approaches was also mentioned, in order to overcome the distant gap with the local societies and underrepresented regions.
28. For the future, there remain various issues to address and States Parties, the Court itself and the civil society will have to continue strengthening their mutual understanding of threats and opportunities:
29. We may need to narrow the immaterial and geographical distance between the alleged commission of crimes and the judicial responses including the possibility of operating in the proximity of the area in which the crimes allegedly occurred;
30. To continue thinking on how to rebuild trust and links with the Security Council and its permanent members which are not yet parties to the Statute is another challenge for the future. It is time that members of the SC adopt policies and decisions to render more efficient its relationship with the ICC, while respecting its independence and supporting its financial needs.
31. Mention has also been made on the need to use more intensively the governance mechanisms of the ASP to assist the ICC to increase the efficiency of the judicial process. This is apparent for example, in the process of studying amendments of international norms and the Rules of Procedure and Evidence as well as the speed and efficiency at which States address this matter.
32. On cooperation, we must insist on the consideration of ways and means to strengthen it, looking at the practices of the recovery of assets and making use of mutual legal assistance treaties in respect of the most serious crimes. The question of non-cooperation is also a point of concern, especially when it is appears in conjunction with Security Council referrals.
33. As you are aware, one of the unique characteristics of the Rome Statute is the incorporation of victims' rights in criminal proceedings, and the opportunity for them to participate in these proceedings. Reparations to victims, ordered by the

Court and implemented by the Trust Fund for Victims, have now become a reality. With this small step, the promise of reparative and restorative justice made in Rome 20 years ago has proven to be far more than just idealistic ambition; it is now a reality for the victims of horrendous crimes. I note also that despite the effective work being done by the Fund under its assistance mandate it is crucial to improve the understanding of its work, and to raise awareness of the need to provide the Trust Fund with the support and resources it needs to ensure its sustainability and enable it to bring relief to a greater number of victims.

34. The Court, which is a wheel of a chain in a system of interrelated jurisdictions, does not and cannot work in isolation.
35. No agregaré más comentarios sobre temas de gran importancia para nuestro trabajo como Estados Partes y para la Corte misma. Pero, queda en el aire la cuestión de la interpretación de algunos artículos del Estatuto que presentan dificultades para su aplicación, o la forma como abordamos estos temas. A este respecto, nosotros, los Estados Partes debemos tener la capacidad para resolver nuestros propios temas y asistir a la Corte.
36. Creo que, como una palabra final, los puntos aquí expuestos no agotan las reflexiones que surgen de los temas abordados en las presentaciones, y en los días que vienen surgirán otras perspectivas. Estoy consciente de esto. Finalmente, deseo agradecer a nuestro coordinador del Grupo de la Haya, el Embajador Horslund de Dinamarca, y a todos quienes brindaron su respaldo para esta excelente iniciativa y por haberme permitido estas palabras finales.