

**The Genocide Convention:  
A Sixtieth Anniversary Celebration**

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*The Second Annual International Humanitarian Law  
Dialogs at the Chautauqua Institution*

*Introductory Remarks*

Ladies and Gentlemen,

Let me start by thanking the Chautauqua Institution and the Robert H. Jackson Center for giving me the opportunity to speak in front of you today. It is a great honor to be here. As you may know, the Prosecutor is visiting Colombia and could not be here today. He conveys his greetings.

Sixty years ago with the Nuremberg trials, for the first time, those who committed massive crimes were held accountable before the international community. For the first time, the victors of a conflict chose the law to define responsibilities.

Nuremberg, and the adoption of the Genocide Convention, were landmarks. However, the world was not ready to transform such a landmark into lasting institutions. The Cold War produced massive crimes in Europe, Latin America, and Asia; Africa was still under the rule of colonialism and apartheid.

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In the end, the world would witness again two genocides—first in the former Yugoslavia, and then in Rwanda—before the Security Council decided to create the ICTY and the ICTR. The contribution of the ad hoc tribunals is yet to be fully recognized and measured. They developed the law, and prosecuted the worst perpetrators, generals, members of governments. They contributed to restore lasting peace in conflict-torn regions. The recent arrest of Karadžić after thirteen years has also been a determining event, a reality check for all those who believed the Courts were just paper tigers.

The ad hoc tribunals for Yugoslavia and Rwanda, as well as the Special Court for Sierra Leone, paved the way for the decision to establish a permanent criminal court.

The International Criminal Court (ICC) was built upon the lessons of decades when the world had failed to prevent genocides. It was built upon the simple recognition that all the old recipes to stop violence and conflicts—amnesties or golden exiles for dictators, sharing of power with massive criminals—just did not work.

The ICC is a new instrument in a world where conflicts transcend borders. The ICC is about ideas, ideals, and altruism. It is also about self-interest. If states do not deal with massive crimes, there are no safe borders for the global community. A global problem needs a global solution.

Yet again, today, for each of our cases, voices are raised to say that justice comes too soon, at the wrong time, against the wrong targets, and in the wrong countries. Yet today, the same countries and leaders who have been heard to say “never again,” who have shamed the international community for letting Rwanda and other massive atrocities happen, are asking the Court to look away.

Well, let me repeat again the Prosecutor’s words: we don’t have the luxury to look away, because we have evidence, and because crimes can and must be stopped now, and because women and girls can and must be saved from rape now.

We have heard it all before. Don’t do justice before a peace agreement because it makes negotiations difficult, and don’t do justice after a peace agreement because it makes implementation difficult. Don’t present a case against Bashir now, don’t arrest Kony now. When will we have enough raped women, enough abducted children? I think now, sixty years after the adoption of the Genocide Convention, is the right time to act.

Among the characteristics of the Court are its permanence and its independence, with the possibility for the prosecutor to select cases at any time *proprio motu*. The Rome Statute is also the first instrument to integrate in a detailed way the content of existing conventions, among them, of course, the Genocide Convention. Furthermore, the Statute already integrates as substantive law elements of the fantastic

jurisprudence of the ad hoc tribunals, especially in relation to gender violence and crimes against children. In our recent work on Darfur, the Office has been inspired by the *Akayesu* Judgment and the recognition of massive rapes as an integral part of the destruction of the communities. Rapes, to kill the will, the spirit, and life itself; rapes, the silent weapons; rapes, which officially do not exist in Sudan; rapes, which the international community seems to consider as normal for little girls abducted years ago by Kony in Uganda and whom this criminal now calls his wives.

As an African, as a lawyer, as a woman, I want this year of celebration of the Genocide Convention to be a year when the international community united from South Africa to Canada, from Russia to China, from the United States to Costa Rica, to speak with one voice to make all perpetrators of massive atrocities accountable for their acts.

We can create a global community based on respect for the law. The law is not only for the poor and the weak, the law does not only apply to the enemies. With our Court, we apply on a permanent basis one standard to all. It is a challenge, and it is an opportunity. We have to rise to the challenge and use the opportunity proffered.

It is a challenge because the Rome Statute creates a system different from past models, forcing us to rethink how the law works, in the courtroom and beyond. This system is new, and when we put it in practice, as the organs of the Court have for the last years, it can create tensions: tensions in the courtroom and tensions on the

field. Political leaders and international negotiators have to adjust to this new framework.

Is it easy? No.

Is it necessary? Yes.

Ladies and Gentlemen,

Justice is part of a comprehensive solution in Darfur, in Northern Uganda, in the Democratic Republic of the Congo, and in the Central African Republic. Political negotiations, security, and delivery of humanitarian aid are the remit of states and international organizations. Our mandate is justice. Each of our cases and situations are a test for our ability to connect those elements together.

The Prosecutor is trying to be as clear and predictable as possible. This is the Office's contribution. Denying the facts is not an option. Sequencing between justice and peace is not an option. Selecting the targets on the basis of their political status is not an option: we cannot go after well known figures because it would give our courts more recognition and we cannot go after lower targets just because it would make arrests easier. Criminal responsibility and the evidence are the key factors. And in the Darfur case or in any case, they will be assessed by the judges and the judges only.

Our shared goal should be to turn the challenges of justice into an opportunity. By virtue of the Statute, each state party must support the Court whether it decides to indict, convict, or acquit. The ICC offers a tool to

control violence in the world: the law. There are no more immunities and amnesties for those most responsible for serious crimes. This could and does create difficulties in the short term, but in the long term, our legitimacy will bring new opportunities: individuals sought by the Court can be isolated.

With the ICC, the values *and* interests of the international community as a whole can converge.

Ladies and Gentlemen,

The ICC represents a unique opportunity for the world to come together; to protect each citizen of the world to isolate those sought by the court. Our cases are about the individual responsibility of criminals. There can be no political or ethnic solidarity with individuals alleged to have committed massive crimes. There can be no solidarity with ICC indictees and fugitives from the Court. The work of justice can help communities to come together and move forward.

I know there are skeptics. People saying: what can I do?

Let me emphasize the role of the citizens. As prosecutors, we will do our work, but we need global citizens to create a global community.

Individuals, as always, will make the difference. Human rights defenders, victims daring to speak up.

Raphaël Lemkin was just a citizen. A citizen who decided to do something. A citizen who worked tirelessly to promote a treaty prohibiting the crime of genocide. He gave himself a mission: “my basic mission in life is to create a law among nations for the protection of national, racial and religious groups from destruction.” He sent thousands of handwritten letters to ambassadors. He said, and I quote him, “I learned to love the obstacles by making them a test of my moral strength.”

And you know what? He succeeded. The Genocide Convention was signed in 1948.

The Rome Treaty, creating a permanent court to prosecute massive crimes and genocide was approved in 1998.

The Court is in motion. Thank you for your attention.

