

**ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE OF
THE INTERNATIONAL CRIMINAL COURT**

New York, 22 April 2003

STATEMENT MADE BY MR. LUIS MORENO OCAMPO

MR. CHAIRMAN

I WANT TO THANK YOU FOR THE OPPORTUNITY TO ADDRESS THE ASSEMBLY OF STATES, WHICH HAS HONORED ME BY NAMING ME THE FIRST PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT.

THIS DESIGNATION IS A GREAT PRIVILEGE. AT THE SAME TIME, IT IS A GREAT RESPONSIBILITY. THIS COURT IS CHARGED WITH APPLYING THE RULES AND AGREEMENTS, WHICH HAVE BEEN ESTABLISHED AFTER A 10-YEAR PROCESS OF COMPLEX DISCUSSIONS AMONG REPRESENTATIVES OF STATES ALL AROUND THE WORLD, A PROCESS THAT HAS BEEN FOLLOWED WITH GREAT INTEREST BY THE NON-GOVERNMENTAL ORGANIZATIONS THAT ARE PART OF THE COALITION.

AS A CITIZEN, I WANT TO GIVE A SPECIAL TRIBUTE AND RECOGNITION TO ALL THE REPRESENTATIVES OF STATES AND MEMBERS OF THE COALITION, FOR SUCCEEDING IN ESTABLISHING THE INSTITUTION THE WORLD HAS DREAMED ABOUT FOR MORE THAN A CENTURY.

MR. CHAIRMAN

THE INTERNATIONAL CRIMINAL COURT WAS CREATED OUT OF THE RECOGNITION THAT CERTAIN CRIMES - BECAUSE OF THEIR NATURE - AFFECT THE ENTIRE INTERNATIONAL COMMUNITY AND HENCE, NATIONAL BORDERS CANNOT CONFINE THE INVESTIGATION AND PUNISHMENT OF SUCH CRIMES.

THE TIME AND EFFORT DEDICATED TO FIND AN APPROPRIATE SOLUTION TO THIS PROBLEM, MADE IT POSSIBLE TO CREATE AN INTERNATIONAL CRIMINAL COURT OUT OF THE PRINCIPLE OF COMPLEMENTARITY, WHICH REPRESENTS THE WILL OF CREATING A GLOBAL INSTITUTION THAT IS, AT THE SAME TIME, RESPECTFUL OF THE MEMBER STATES' SOVEREIGNTY.

THE PRIMARY RESPONSIBILITY TO PREVENT, CONTROL, AND PROSECUTE THOSE ATROCIOUS CRIMES BELONG TO THE STATES IN WHICH JURISDICTIONS THEY ARE COMMITTED.

THE PRINCIPLE OF COMPLEMENTARITY ESTABLISHED BY THE STATUTE COMPELS THE PROSECUTOR'S OFFICE TO COLLABORATE WITH NATIONAL JURISDICTIONS IN ORDER TO HELP THEM IMPROVE THEIR EFFICIENCY.

THAT IS THE FIRST TASK OF THE PROSECUTOR'S OFFICE: MAKE ITS BEST EFFORT TO HELP NATIONAL JURISDICTIONS FULFILL THEIR MISSION.

THE PROSECUTOR'S OFFICE CAN DO THIS IN DIFFERENT WAYS. IN A COOPERATIVE WAY, BY GIVING THE STATE THE INFORMATION RECEIVED FROM DIFFERENT PUBLIC SOURCES OR PROVIDING THE STATE'S PERSONNEL WITH TRAINING AND TECHNICAL SUPPORT.

ALSO, DUE TO THE DISSUASIVE EFFECT THAT THE MERE EXISTENCE OF THE COURT GENERATES, THE POSSIBILITY OF PRESENTING A CASE AT THE INTERNATIONAL CRIMINAL COURT COULD CONVINCED SOME STATES WITH SERIOUS CONFLICTS TO TAKE THE APPROPRIATE ACTION.

LET ME GIVE YOU, AS AN EXAMPLE OF THIS INTERACTION, WHAT HAPPENED IN MY COUNTRY.

IN THE 70'S, ARGENTINA FACED A PERIOD OF POLITICAL VIOLENCE THAT HAD NO HISTORICAL PRECEDENT. GUERRILLA GROUPS KILLED MORE THAN 800 PEOPLE, AND "DEATH SQUADS" KILLED HUNDREDS OF OTHERS MORE.

BUT SINCE THE 1976 COUP D'ETAT, A CRIMINAL PLAN WAS IMPLEMENTED BY THE STATE. MEMBERS OF THE ARMY AND SECURITY AGENCIES ATTACKED THE SOCIETY THEY WERE SUPPOSED TO PROTECT. THEY USED KIDNAPPINGS AND TORTURES AS UNDERCOVER METHODS TO INVESTIGATE THOSE THEY CONSIDERED SUSPICIOUS. WITHOUT A TRIAL AND IN SECRET, THEY ASSASSINATED MORE THAN 15000 PEOPLE AND HID THE BODIES.

CITIZENS COULD NOT ASK FOR STATE PROTECTION BECAUSE THE STATE WAS ATTACKING THEM. THAT'S WHY THEY JOINED HUMAN RIGHTS GROUPS AND SOUGHT INTERNATIONAL SUPPORT.

THE INTERNATIONAL PRESSURE PLAYED A KEY ROLE IN STOPPING THE KILLINGS. IT WAS GENERATED BY DIFFERENT COUNTRIES, BY THE UNITED NATIONS' INSTITUTIONS, AND ESPECIALLY BY THE INTER-AMERICAN COMMISSION OF HUMAN RIGHTS WITHIN THE ORGANIZATION OF AMERICAN STATES, AS A RESULT OF ITS LOCAL INSPECTIONS IN 1979..

THE INTERNATIONAL ACTION WAS ALSO USEFUL ENSURING THAT THE CRIMINALS WERE BOTH JUDGED AND PUNISHED. THE INFORMATION GATHERED BY THE U.N COMMISSIONS,

THE REPORTS PRESENTED BY THE O.A.S, AND BY THE NATIONAL COMMISSION FOR DISSAPPEARING PEOPLE IN 1984, MADE IT POSSIBLE FOR THE PROSECUTOR TO COLLECT DOCUMENTED PROOF AND TESTIMONIES IN ORDER TO PURSUE THE JUDGEMENT AND CONVICTION OF THOSE RESPONSIBLE FOR THE CRIMES, THAT IS, THE MILITARY JUNTA MEMBERS.

THE PRINCIPLE OF COMPLEMENTARITY DEMANDS NATIONAL EFFORTS TO MAKE NATIONAL ACTION POSSIBLE. THE INTERNATIONAL CRIMINAL COURT MUST EVALUATE THESE NATIONAL EFFORTS SERIOUSLY, TAKING INTO CONSIDERATION THE NEED TO RESPECT THE DIVERSITY OF JURIDICAL SYSTEMS, TRADITIONS, AND CULTURES, AS IT WAS SET IN THE NEGOTIATION PROCESS.

EXPERIENCES SUCH AS RWANDA'S, AND THE INTERVENTION OF TRADITIONAL INSTITUTIONS LIKE THE GACHACHA, MUST BE ANALYZED WHILE TAKING INTO CONSIDERATION THE PARTICIPATION OF THE ENTIRE SOCIETY. JOINT INSTITUTIONAL EFFORTS SUCH AS THOSE CARRIED OUT BY THE SIERRA LEONE'S ESPECIAL COURT MUST ALSO BE TAKEN INTO ACCOUNT.

HOWEVER, THERE WILL BE CASES IN WHICH NATIONAL STATES WILL NOT BE ABLE TO, OR WILL NOT WANT TO FULFILL THEIR BASIC MISSION OF INVESTIGATION AND JUDGEMENT. IN THESE CASES, THE INTERNATIONAL CRIMINAL COURT MUST FILL THE GAP CREATED BY NATIONAL STATES.

WITH THE ADOPTION OF THE ROME STATUTE, THE INTERNATIONAL COMMUNITY AFFIRMED ITS COMMITMENT TO INTERVENE WHEN NATIONAL ACTUATION IS INSUFFICIENT.

AS PROSECUTOR FOR THE INTERNATIONAL CRIMINAL COURT, I WILL BE IN CHARGE OF TRIGGERING THE INTERNATIONAL JURISDICTION. I WILL USE THIS POWER WITH

RESPONSIBILITY AND FIRMNESS, ENSURING STRICT COMPLIANCE OF THE STATUTE, MAINLY IN MATTERS CONCERNED WITH THE PROOF OF THE CRIMES AND THE INABILITY OF STATES TO CONTROL SUCH CRIMES.

I DEEPLY HOPE THAT THE HORRORS HUMANITY HAS SUFFERED DURING THE 20th CENTURY WILL SERVE US AS A PAINFUL LESSON, AND THAT THE CREATION OF THE INTERNATIONAL CRIMINAL COURT WILL HELP US TO PREVENT THOSE ATROCITIES FROM BEING REPEATED IN THE FUTURE.

THE EFFICIENCY OF THE INTERNATIONAL CRIMINAL COURT SHOULD NOT BE MEASURED BY THE NUMBER OF CASES THAT REACH THE COURT OR BY THE CONTENT OF ITS DECISIONS. QUIET ON THE CONTRARY, BECAUSE OF THE EXCEPTIONAL CHARACTER OF THIS INSTITUTION, THE ABSENCE OF TRIALS LED BY THIS COURT AS A CONSEQUENCE OF THE REGULAR FUNCTIONING OF NATIONAL INSTITUTIONS, WOULD BE ITS MAJOR SUCCESS.

MR CHAIRMAN

I AM AWARE THAT DIFFICULT AND EXTENSIVE NEGOTIATIONS WERE NEEDED BEFORE DELEGATIONS COULD REACH WIDE AGREEMENT BOTH ON THE ROLE OF THE PROSECUTOR TO TRIGGER THE JURISDICTION OF THE COURT AS WELL AS ON THE SCOPE OF THE POWERS TO INVESTIGATE AND PROSECUTE.

I AM ALSO AWARE OF THE APPREHENSION AND CONCERNS RAISED BY THIS SYSTEM EVEN TODAY, IN PARTICULAR WITH REGARD TO MY POWERS TO LAUNCH AN INVESTIGATION ON MY OWN INITIATIVE.

I UNDERSTAND THESE FEARS AND THE UNDERLYING POLITICAL SENSITIVITIES. HOWEVER, THIS IS THE TIME TO RETHINK THESE AND OTHER CONCERNS. THIS IS THE TIME TO ANALYZE HOW CAN THIS NEW INSTITUTION STRENGTHEN GLOBAL PEACE.

AN ATTENTIVE READING OF THE ROME STATUTE AND ITS SUPPLEMENTARY INSTRUMENTS REVEAL THAT THE ARCHITECTS OF THE INTERNATIONAL CRIMINAL COURT WERE WISE IN ACCOMPANYING THE POWERS OF THE PROSECUTOR WITH AN ADEQUATE SYSTEM OF CHECKS AND BALANCES APT TO PREVENT ABUSE OF POWER OR ARBITRARY DECISIONS.

THE ASSEMBLY WILL CONTROL THE PROSECUTOR'S BEHAVIOUR. THE PROSECUTOR WILL SUPERVISE HIS TEAM AND THE PRE TRIAL CHAMBER WILL CONTROL THE CASES. THE JUDGES WERE SELECTED AMONG THE BEST CANDIDATES FROM 43 COUNTRIES. THE WORLD CAN TRUST THEM.

I WISH THE ASSEMBLY TO REST ASSURED THAT I WILL INDEED EXERCISE MY FUNCTIONS WITH CAUTION AND WITHIN THE STRICT LIMITS PROVIDED FOR IN THE STATUTE AND OTHER INSTRUMENTS.

MISTER CHAIRMAN

THE ASSISTANCE OF ALL OF YOU WILL BE ESSENTIAL FOR THE FULFILMENT OF MY DUTIES. STATE COOPERATION WILL BE CRUCIAL FOR THE INVESTIGATION OF CRIMES AND THE PROSECUTION OF THE PERPETRATORS.

YOU HAVE CREATED THE INTERNATIONAL CRIMINAL COURT. THE COURT WILL DEPEND UPON YOU TO FUNCTION EFFECTIVELY AND EFFICIENTLY. THAT IS WHY OUR DIALOGUE MUST BE CONSTANT, OUR COOPERATION PERMANENT.

MR CHAIRMAN

THE INTERNATIONAL CRIMINAL COURT IS INTENDED TO BE GLOBAL BUT IT IS NOT YET UNIVERSAL. THE ASSEMBLY OF STATES PARTIES, CIVIL SOCIETY AND THE INTERNATIONAL CRIMINAL COURT ITSELF SHOULD DEPLOY ALL EFFORTS IN ORDER TO ENHANCE THE ACCEPTANCE OF THE COURT AND ATTRACT THE PARTICIPATION OF THOSE STATES THAT REMAIN RELUCTANT TODAY.

AS PROSECUTOR,I CAN CONTRIBUTE TO BUILD UP CONFIDENCE IN THE INTERNATIONAL CRIMINAL COURT, BY EXERCISING MY INVESTIGATIVE POWERS IN AN IMPARTIAL, CREDIBLE WAY AND IN FULL RESPECT FOR STATE ACTION.

MONSIEUR LE PRESIDENT

IL EST IMPORTANT QUE LE BUREAU DU PROCUREUR PUISSE FONCTIONNER AVEC LE PLUS HAUT NIVEAU DE PROFESSIONALISME ET EFFICACITE. IL EST EGALEMENT IMPORTANT D'ASSURER QUE LE BUREAU REFLETE DANS SA COMPOSITION LA VOCATION UNIVERSELLE DE LA COUR PENALE INTERNATIONALE. C'EST PORQUOI, DANS LE JOURS ET MOIS QUI VIENNENT, JE TIENS A DEPLOYER TOUS MES EFFORTS POUR ABOUTIR A CONFORMER DES EQUIPES QUI SOIENT, A LA FOIS, INTELLECTUELLEMENT SOLIDES ET SUFFISAMMENT EQUILIBREES DU POINT DU VUE DU GENRE, REGIONS GEOGRAPHIQUES ET SYSTEMES JURIDIQUES.

MONSIEUR LE PRESIDENT

JE SUIS RECONNAISSANT D'AVOIR MERITE LA CONFIANCE DE CETTE ASSEMBLEE QUI VIENT DE ME NOMMER PROCUREUR DE LA COUR PENALE INTERNATIONALE. JE COMPTE SUR VOUS TOUS POUR M'AIDER A EXERCER MES FONCTIONS.

MERCI BEACOU

