

WEB EXCLUSIVE

FIVE MINUTES WITH LUIS MORENO-OCAMPO: AN INTERVIEW WITH THE ICC PROSECUTOR

Interview by Adele Waugaman

Luis Moreno-Ocampo, chief prosecutor of the International Criminal Court (ICC), sat down with *IAR* in September 2005 to discuss challenges facing the world's first permanent and independent court capable of trying human rights abusers. His comments focus on the ICC's investigations into the Darfur conflict in Sudan, the Ugandan civil war infamous for its conscription of child soldiers, and the bloody hostilities in the mineral-rich Democratic Republic of the Congo.

***An Abbreviated
Timeline of the ICC***

July 1, 2002 – The Rome Statute of the International Criminal Court enters into force, beginning ICC jurisdiction over genocide, crimes against humanity, and war crimes. An “advance team” of ICC personnel begins work in The Hague, the Netherlands.

March 11, 2003 – The ICC holds its inaugural ceremony

IAR: Given the abundant amount of work before the Office of the Prosecutor, some believe that cooperation with local groups in areas where the Court is active will play an important role in the justice process. Yet, in the case of Uganda, this notion has generated significant controversy among those who believe that the ICC should step back and let the peace process progress on its own. To what extent do you believe direct contact with peace negotiators is appropriate?

LMO: One of my primary duties as Prosecutor is to respect the interest of the victims, so that is why my office is meeting with community leaders, regional leaders, and local authorities in all of the countries in which the ICC is involved. While we are following what local groups are doing, we can not be a part of any peace agreement because we are prosecutors. But we have to understand what [the peace negotiators] are doing and at least try not to interfere with them.

IAR: Is that to say that peace and justice must proceed on separate tracks?

with the swearing in of the first 18 judges.

April 21-23, 2003 – *The Assembly of States Parties – the countries to have ratified or acceded to the Rome Statute – elect Luis Moreno-Ocampo ICC chief Prosecutor.*

June 16, 2003 – *Moreno-Ocampo is sworn in.*

January 29, 2004 – *The Office of the Prosecutor announces that Uganda referred the situation in Northern Uganda to the Court. Moreno-Ocampo says there is “sufficient basis” to plan for the launch of a formal investigation.*

April 29, 2004 – *The Office of the Prosecutor announces that the Democratic Republic of the Congo (DRC) has referred crimes allegedly committed in the DRC since the entry into force of the Rome Statute.*

June 23, 2004 – *The Office of the Prosecutor announces the launch of formal investigations into the situation in the DRC.*

LMO: I think the Court will show in five years’ time that justice helps peace. Peace and justice are not a dichotomy – they can work together. In Northern Uganda, some people working on the peace process were excluding justice, and this is not possible.

IAR: Of the three cases and two referrals made public by the ICC, all involve conflicts in Africa. What do you say to critics who charge that this geographic focus demonstrates political weaknesses or limitations of the Court?

LMO: Well, that’s an interesting question because the criteria [we are using] in selecting cases is gravity. Congo, Uganda, and Sudan, for us, are the gravest situations in which the ICC has treaty jurisdiction, so we are focusing our attention there.

IAR: And how do you define gravity of cases?

LMO: Gravity is defined by the number of killings, right now, because killings are normally reported. Other crimes, like rapes, usually are not reported. So we choose as the main criteria [for determining gravity] the number of people killed. We have some other factors, but that is the main criteria that we are using to select our cases.

IAR: The ICC has been working for more than two years, and it operates on a budget comparable to that received by the UN ad hoc tribunals for Rwanda and the former Yugoslavia once those courts had several dozen cases and numerous trials at hand. How does the ICC compare to those other tribunals?

LMO: [The work of the Court is] just beginning. In Uganda we did our investigations in nine months. Those investigations are still underway, but the main part of our investigations was concluded in nine months.

In the Congo, the length of the investigations will depend on the amount of cooperation we can get, and on the conflict. But it is important for us to use available resources in the best way that we can. We are very aware of the relationship between cost and benefit. So we are trying to have a small office there that relies on international cooperation.

So we cannot follow the same policy as the *ad hoc* tribunals. We’re trying to conduct just a few cases in each situation, and

July 29, 2004 – *The Office of the Prosecutor announces the launch of formal investigations into the situation in Uganda.*

March 31, 2005 – *The UN Security Council adopts Resolution 1593 referring the situation in Darfur, Sudan to the ICC.*

June 6, 2005 – *The Office of the Prosecutor announces the opening of an investigation into the situation in Darfur.*

March 17, 2006 – *The ICC announces its first arrest, that of Ugandan rebel leader Thomas Lubanga, who stands accused of conscripting child soldiers during Uganda's two-decade civil war.*

that's it.

IAR: How do you respond to the speculation that the ICC risks being "neutralized" by becoming overburdened?

LMO: I don't think that will happen. We are trying to keep our focus on the gravest cases, and right now we are managing. I think the most difficult time was in the beginning. It was [as if we were] designing a plane, assembling a plane, recruiting the crew, and taking off all at the same time. But we did it, and now we've got three planes flying in three different countries.

So I think there was a danger before, but now the Court is in motion. The idea is to complete a few cases, and then move to the next situation.

IAR: Are there any conversations you'd like to hear among international legal scholars about new practices areas created by the establishment of the ICC?

LMO: Usually legal scholars focus on the classic problems of national criminal systems, but we have different challenges, such as criteria to determine the gravity [of crimes], [...] the criteria about how to convey impartiality, or criteria about interaction with efforts for peace. For example, should [the ICC] prosecute all parties involved in a conflict, or just those committing the worst atrocities? These are issues that are not frequently considered by national prosecutors, or by those at *ad hoc* tribunals, and these are some of the issues that I'd like to hear more discussion about among international legal scholars.



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