



Fiscalía General del Estado

**4th WORLD SUMMIT OF PROSECUTORS GENERAL,
ATTORNEYS GENERAL AND CHIEF PROSECUTORS**

**“NEW INITIATIVES OF THE PROSECUTION
SERVICE - FAIR AND JUST SOCIETY”**

PLENARY SESSION

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Seúl-Corea
30 de junio de 2011.-

This is the fourth occasion on which, thanks to the organisational capacity of the United Nations' organisation it is possible to bring together in the same place and at the same time such a large and heterogeneous group of professionals, from a variety of locations, with very different legal systems, with diverse concepts of social organisation to discuss a single subject: The mission of Attorney General's office.

It is true that the Attorney, with the variety of names, organisations and responsibilities which we find in every country when comparing our models, has a single and unique connection point on a world level, that is the mission developed to guarantee the Law. Our respective societies converging from a variety of cultural backgrounds have entrusted us the task of safeguarding application of the law and prosecuting crime, ensuring judgement thereof before the Courts and the conviction of those responsible.

It is noteworthy, however, that this cross-cutting coincidence of our duty as public servants disappears precisely when the crime phenomenon reaches a global scale. The historical connection between Penal Law, State and sovereignty is thus the source of our legitimisation as promoters of Law but, at the same time, it involves a restriction and limitation to our ability to act beyond our respective borders. We are aware that there are crimes surpassing these borders and which damage or threaten Mankind as a whole, and entire regions of the planet. But the progress of a model of legal response which mirrors



the internal pattern in each State, allowing crimes to be prosecuted on an international level, is slow and faces huge obstacles.

It is however true that we have witnessed giant steps forward. The enormous war tragedies of the 20th Century were eye-openers on conduct directly affronting the very essence of the human being, without distinction of race, geographical origin or social status. The first steps of Humanitarian Criminal Law, forecast four centuries earlier by the Spaniard Francisco de Vitoria, resulted in the creation of the two first *ad hoc* International Courts at the end of World War II, and the embryonic development of the doctrine on Crimes against Humanity, in particular genocide and war crimes.

The same model has subsequently been applied to other armed conflicts, whether in Europe (as is the case of the Former Yugoslavia) or in Africa, with the creation of the International Criminal Court for Ruanda. And, as we know already, the Rome Statute establishing the International Criminal Court based in The Hague has received accessions which, however, still do not include those of the most powerful countries.

The road ahead is therefore clear cut, but the pace may be slow and tortuous. The iconic proclamation of Roman jurist Marcus Tullius Ciceron "*let arms yield to the toga*" feels like a distant memory, too far from today's reality. As guarantors of the law, in a single international momentum, we should perhaps fearlessly state that arms are to yield to the toga, and that the commitment of all States and Governments with this common goal, promoting genuine and efficient international justice versus globalisation of crime.



But this is not all. Great war catastrophes have been followed by other emerging forms of violation of the most elementary coexistence rules underpinning the idea of civilisation. Today, entire societies in various parts of the globe wane before the threat of terrorism and are blighted by corruption. Criminal organisations are becoming more powerful than some States: they control territories, traffic with human beings, who are exploited for their own designs, they amass fortunes with drug and weapons trading, and thereby mar the lives and health of entire generations of youths, corrupt governments undermining the very core of a legally organised society, that is, the idea of the State and therefore the survival of our model of international community.

Sometimes aggression arises from within the very system itself: Western countries are – for the most part – suffering a deep-rooted economic and financial crisis which is a consequence of unscrupulous speculation versus which we currently lack minimally orderly and efficient criminal enforcement tools.

The fight against these huge criminal phenomena requires a horizontal approach, which is flexible and all-encompassing. We are not facing an aggressor State or a criminal army. This is not a political or ideological problem, in the classic sense of these terms. Criminals are a threat to any type of State because their intention is to reach levels of economic and social control which require the neutralisation or submission of public powers and, in particular, democratic public powers.

In this context, the gravest concern is that criminals are increasingly difficult to locate and prosecution is a tough task because Justice permanently faces the obstacle of borders. Some regional initiatives such as the planned creation of a European Attorney



entrusted with prosecution of crimes against the financial interests of the European Union, under the Lisbon Treaty, still come up against incomprehensible resistance. The fight against corruption and drug trafficking which is a challenge for the Latin American Association of Public Prosecutors in Latin America, an organisation which I am honoured to chair, sometime demands almost heroic actions from Attorneys entrusted with applying the Law. These are scenarios which I am very familiar with, and I am sure that officials in other continents face similar problems.

The difficult road towards institutionalisation of transnational Justice must not be abandoned. It is our obligation, but virtue of the common mission bringing us together, to ensure that our governments and the international bodies consulting us understand the idea that international crime requires an international criminal system and model of international justice. We do not have a lot of time to wake up to this idea. It is not a forward-looking challenge, the challenge is here and now.

Perhaps the problem is that a global reaction model against crime cannot be built from top-down alone. Large global structures sometimes require extraordinary efforts to reach small achievements.

The globalisation of crime could be curtailed with the horizontal globalisation of Justice. The exchange of ideas, the approximation of ideas, the agreements on which behaviour in these times, in the 21st century, are a threat to our universal coexistence model, must form the foundation for the development and growth of instruments of international legal cooperation. The near future of this global model of Justice is, in reality, dependent on our ability to communicate and work together, our reciprocal and



collective understanding, the willingness to ensure that our respective systems are more permeable, our commitment to cooperate when allowing investigation to take place, offering assistance to locate criminals or the economic resources which they use. Instruments for cooperation, networks for communication and transfer of information, such as the remarkably successful networks in Latin America and Europe, the assignments of jurisdiction to Courts that can act with greater efficiency given their capacity to persecute crime in situ, the provision of human and material resources to colleagues in other countries needing assistance, the advance use of new technologies to combat their perverse use by criminals are the options which are now our true and most feasible hope of being able to face the largest criminal threats.

Our union gives us the strength to do this; the chance to make arms, crime, horror and exploitation yield before the toga. This Summit is the materialisation of this expectation, which must become our true commitment.

Thank you.
