

ANR Robinson's Long Road to the International Criminal Court (ICC)

In the year of 2000 the then President of the Republic of Trinidad and Tobago, anticipating the establishment of the ICC, reminisced about his campaign for the setting up of that body:

My own involvement in this matter has been long and may I say, arduous but very exciting, having regard to the value of an institution such as an International Criminal Court for the implementation of International Penal Law, and Humanitarian Law, in particular, in a very effective manner.¹

That struggle was indeed long and arduous, spanning just over half a century, culminating happily, in the establishment of an international juridical organization which emerged just in time to act as a deterrent to increasing international terrorism, genocide, ethnic cleansing and piracy. The long road to the ICC can be traced back to the early 1950's when two bright young men crossed paths at Oxford University. In 1953, Robinson, having just been called to the Bar in London, was admitted to read for the Bachelor's Degree in politics, philosophy and economics. He immediately joined the Oxford Union, that nursery for so many British and Commonwealth politicians, where he met and established rapport with another ardent debater Robert Woetzel who was then writing a PhD thesis on the subject of the Nuremberg trials in international law. Prior to Robinson's arrival at Oxford, Woetzel and others had formed the Oxford Political Study Group to which Robinson was invited. This was the start of a long and fruitful relationship between the two men which ended with Woetzel's death in 1991. During this period Robinson partnered Woetzel in the long haul towards the ICC. In 1971 Woetzel invited Robinson to a conference in Racine, Washington whose purpose was the setting of building blocks for the ICC. On that occasion Robinson planted a blue spruce which grew sturdily as the mechanics of the ICC

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also advanced. Three decades later when the ICC had become a reality, Robinson was invited, once again, this time without Woetzel, to celebrate the new birth. The spruce, a sapling of 1971, now a 30 foot specimen overshadowed the gathering in April 2002. That evening Robinson confided to his diary “This was a most satisfying moment for me”.

The successful establishment of the ICC was due in large measure to the harmonious relationship which developed between Robinson and Woetzel. During the late 1970’s they both shared fellowship at Harvard University when much of the research work was done. When Robinson felt that his life was threatened during the run-up to the 1976 general elections in Trinbago he appealed to Woetzel to alert the international community and just before his death, Woetzel dedicated his last work The Code of Tallories to his long-time friend. A second major influence on the road to the ICC was Robinson’s time at Oxford. The young scholar interacted with eminent literati such as the historian Max Beloff and the philosopher Isaiah Berlin and he found time to interact with leaders of the Mau Mau struggle in Kenya led by Jomo Kenyatta, himself a former activist in the UK. Robinson became actively involved in the debate about the future of Europe’s African colonies. Should this be one of partnership between Europe and her colonies or as the Europeans would have preferred, one of trusteeship in which Europe ruled on behalf of the continent’s benighted people. In 1954 Robinson and other Afro-Asian people drew enormous inspiration from the Vietnamese defeat of the French forces at Dienbienphu and the forward movement of Asia under dynamic Asian leaders.

The Caribbean Situation

In 1955 Robinson returned home as barrister/economist and for the next half century moved into fast forward as he plunged into the deep end of the maelstrom of Caribbean politics. For the

Caribbean, the period of the Fifties to the Seventies of the last century was one of considerable political turbulence. This was a time when colonial peoples world-wide were breathing fresh air after the long and dreary Second World War (1939-1945) which had provided a convenient European pretext for the withholding of political reforms in the colonies. Now, in the aftermath of the War, leaders were emerging to organise struggles everywhere: George Padmore and Kwame N’Krumah in Africa, Nehru and the followers of Gandhi in India and Soekarno in Indonesia. In the Caribbean there arose leaders like Fidel Castro, Eric Williams, Norman Manely, Alexander Bustamante, Grantley Adams, Cheddi Jagan and ANR Robinson. Nelson Mandela, only eight years older than Robinson, had blazed a trail for his generation by resorting to armed struggle which resulted in lengthy trials from 1956 to 1961 followed by equally long incarceration from 1962 to 1990. Caught in the spirit of the times, Robinson did not tarry long in the wings. In 1956 he joined with Eric Williams to form the People’s National Movement (PNM) serving as that party’s first treasurer. In 1956 he had his first taste of electoral politics as he battled the legendary APT James for the sole contestable seat in Tobago. Fargo as James was known to his followers, had continuously won this seat since 1946 and in 1956, in his last successful election he beat Robinson by 240 votes. However, the “Castara Kid” as Robinson was known, returned to beat Fargo in the Federal elections of 1958 and, as that federation teetered on the brink of collapse, he beat Fargo for a second time in 1961 for a seat in the parliament of Trinidad and Tobago. After this election Robinson was appointed Minister of Finance. In 1966 when there were two contestable seats in Tobago, Robinson won the Tobago East seat after which he became Minister of External Affairs, a position which he held until 1970 when he broke with the PNM, in the aftermath of the February Revolution and the Army Revolt in April 1970.

Robinson’s post – PNM years were difficult ones which he was on his own, seeking to re-invent himself politically, making alliances with various anti-PNM factions in both islands. He was a leader in the no-vote campaign in 1971 and in 1976 he won a Tobago seat as part of a two-person

Democratic Action Congress team in a parliament of thirty-three seats. When the Tobago House of Assembly was inaugurated in 1980, Robinson resigned his parliamentary seat to become first Chairman of the THA and it was from this haven that he was called in 1986 to lead the National Alliance for Reconstruction (NAR) to a 33/3 victory over the PNM in 1986. In the 1995 elections, Robinson used the DAC's two Tobago seats to enable the United National Congress to form the government. In this government, Robinson was appointed Minister Extraordinaire from November 1995 to February 1997 when he was elected Third president of the Republic, a position which he held until March 2003. This intense political involvement was often interrupted by traumas which might have devastated lesser mortals. Two of these will be mentioned here.

In 1976 he was arrested in full public view and lodged in the Scarborough jail alongside three of his colleagues for allegedly conducting an illegal public meeting. Such imprisonment was followed by three days of public trial in the Scarborough Magistrates Court which acquitted all the defendants who were subsequently compensated for wrongful arrest and incarceration. Again in July 1990, Robinson, as Prime Minister, was the prime target of an attempted Muslimeen coup which left twenty-two (22) persons dead and Robinson fighting for life after being shot during the siege. The serious wounds sustained in July 1990 were to cause severe discomfort since that time. Notwithstanding these setbacks however, his fervour for the ICC remained undiminished. On the contrary, he used the travel opportunities which ministerial office enabled, to highlight the need for the ICC. At home the subject was frequently mentioned, in and out of the parliament as we shall presently see, at Cabinet meetings between 1986 and 1991 and at numerous informal occasions when government officials met with important guests. Quite often, Robinson would compare his struggle for Tobago's emancipation with that for an international, properly coordinated criminal justice system. Both of these, he argued were issues of human rights and both

were to be fought simultaneously. These were two beacons which piloted him through the murky waters of mundane politics.

Fora and Methods of Agitation

Robinson used different fora for building up support for the ICC. Starting off with general ideas from the mid-seventies, he gradually honed his perspectives so that by the end of the century he had become a leading authority on blue collar crime worldwide and on various aspects of international criminality. Giving point to his research were events such as the eruptions in the Balkans characterized by the ascendancy of Milosevic, Karadic and Mladic and their peculiar versions of national identity. The grisly stories of ethnic cleansing in Rwanda and Burundi were matters which deeply disturbed him giving further urgency to his persistence. By that time he was like a man possessed! Therefore he never missed an opportunity of highlighting the subject. As a result there is an abundance of information spread widely in newspapers, published speeches, interviews and research notes. Most of these we hope will be deposited at the study centre, dedicated to Robinson, now under construction at Castara. Let us now look at a few examples of this campaign.

In 1973 Robinson used the occasion of the inauguration conference of the Foundation of the establishment of an International Criminal Court to make the case for the ICC. The major obstacles to the establishment of such a court he argued came from three sources namely:

- (i) individuals who, in the absence of state cooperation with the Court, may effectively conceal their identity and escape penal sanctions;

(ii) public authorities that may not wish accountability, even to the peoples within their jurisdiction, let alone to an international authority;

(iii) sovereign states which are extremely reluctant to concede any diminution of their sovereignty.²

What was urgently required, he argued, was a Court with limited jurisdiction, “not necessarily in geographical but in juridical terms; one limited in respect to offences and sanctions, but with the capacity to expand”. Two decades later, in 1993 as a backbencher in the Opposition benches of the Trinidad House of Representatives, he sought to bring to his nation’s attention the need for the ICC. The parliament fully supported the motion that requested full support for the “international effort to establish a tribunal for the trial of persons who may have committed was crimes, genocide or other flagrant violations of international criminal law in the countries that constituted the former Republic of Yugoslavia”.³ The motion also gained support for the United Nations’ effort through the International Law Commission, for the setting up of the ICC.⁴ During his term as Prime Minister (1986 to 1991) Robinson accepted an invitation to join the parliamentarians for Global Action (PGA). Soon this organization became a strong supporter of the ICC cause, even arranging a meeting between Robinson and then Secretary of State Madeleine Albright in 1989. After a cordial meeting with Ms. Albright, Robinson and the PGA sought interviews with all of the permanent representatives at the United Nations thus bringing the ICC question to their governments’ attention. At the 44th Session of the General Assembly in December 1989 Robinson, as Prime Minister of Trinidad and Tobago, tabled a motion requesting the establishment of the International criminal trial mechanism with jurisdiction over persons alleged to have committed crimes which may be covered under a code, including persons

engaged in illicit drug trafficking across national frontiers. When Robinson became, once again a member of the government in 2000, he was able to finally push the matter to a successful conclusion with the full support of the then administration. By this time there was widespread support for the idea world-wide with heavy sponsorship from nations as diverse as Costa Rica, Libya, Vanuatu as well as the whole of CARICOM. The establishment of the ICC in 2002 and the appointment of Karl Hudson-Phillips, a long-time associate of Robinson, as a judge in 2003 were matters of considerable satisfaction to this tireless campaigner for the Court.

With the benefit of a short hindsight, because of the recency of the ICC, how can we assess the Court's success? Like the UNO itself, its record is chequered with successful outcomes in Central Africa and at the Hague. But serious hurdles remain, such as the continuing reluctance of the USA to join and the flouting of ICC directives in the Sudanese crisis. Over-all however, the Court has had a useful symbolic importance, as an international warning authority, alerting would-be offenders that the international community is not prepared to sit by whilst human rights abuses flourish. There is even now a suggestion that the ICC should intervene in the aftermath of the Sri Lankan crisis. But whatever the international verdict, the Caribbean feels very proud of the role of a small island state in the establishment of the Court. At the 4th Summit of the Association of Caribbean States held in Panama City in July 2005 this region paid tribute to Robinson's role in this regard:

In this respect, His Excellency Arthur N.R. Robinson is rightly regarded as a visionary for his proactive, indefatigable and unswerving efforts to promote the creation of the International Criminal Court. From 1972 to 1987, he was a Director of the Foundation of the Establishment of an International Criminal Court and after his assumption of the office of the Prime Minister of the Republic of Trinidad and Tobago in 1986, he was able to lead international efforts in the framework of the United Nations to lay the Foundation of the establishment of the court.

On July 17, 1998, with the adoption of the Rome Statute, the dream became reality with the establishment of the International Criminal Court, with the power to exercise its jurisdiction over persons for the most serious crimes of international concern, including crimes against humanity. The establishment of the International Criminal Court therefore represents an historic landmark in international criminal law and justice, and international relations”.

Footnotes

1. ANR Robinson Presidential Papers and other essays. UWI School of Continuing Studies. Trinidad. 2004. Pg. 412.
2. Ibid. pg 55.
3. Ibid. pg. 203f.
4. Ibid pg. 220

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