

Graduation 2007

Acceptance Speech by Honorary Graduate Judge Eric Møse

Chancellor, Vice-Chancellor, Ladies and Gentlemen. In 1994 and 1995, I spent one sabbatical year at the University of Essex during a sabbatical year from my Court of Appeals in Oslo. I was working on a book about Human Rights. And I spent an extremely interesting and rewarding year here in Essex at the Human Rights Centre under the distinguished and inspiring leadership of the Director, Kevin Boyle. It's a pleasure to be back again and I am deeply honoured to be given this degree today. It's wonderful to be back to a place where I have so many fond memories. Thirteen years have passed since those glorious moments in Essex, eight of them I have spent in Africa and we will soon be nine. My time is five minutes: how do you summarise thirteen years or nine years in five minutes? That's the challenge! But I think I would like to share with you some of our experiences in Arusha as I consider this honorary degree not only as a handshake of a personal character but certainly to the institution as such and I am grateful for that handshake.

I think it could be summarized maybe in three main points. The first is that what we are doing in Arusha is, in the wide sense, a contribution to improve the human rights situation. There are many people doing this – we are making one of many contributions. And just to put it in perspective, generally when we work for the human rights protection, the point is to ensure that states respect and ensure human rights. It's about ensuring that states perform what they have to do. But when states are unable or unwilling to perform their tasks then state responsibility is insufficient. It has to be replaced by another kind of responsibility, namely individual responsibility, namely to find out whether the individual who is alleged to have performed mass atrocities is guilty or innocent. That is our task. Now that's not an easy task. In a conflict which resulted in between eight hundred thousand and one million victims as in the Rwanda genocide, it is almost unnecessary to say that there will have been many perpetrators. An estimate indicates that maybe between three to five hundred thousand people participated in the killings: that was necessary in order to kill so many people in the course of one hundred days. And the response of the International Community, in other words the ICTR has to be this: we must focus on the leaders and that's what we have been doing. We have about seventy people under control in Arusha, some of these cases have been completed, others are on their way, but let me now focus on the personalities. One Prime Minister, fourteen Ministers, many County Governors, many Mayors and they are particularly important in the Rwandan context. The military leadership, the media leadership, the clergy leadership, many, many people are on our list of accused. We have made a contribution I think to show that such leaders are not above the law. That our world is not a world of impunity but of accountability. Not everyone is guilty: we have acquitted five. But the point of performing a due process, a fair trial in order to find out meticulously whether an individual person is guilty or innocent is really then our main task. And let me say what would have happened to these seventy people if the ICTR had not been there? The answer is probably nothing. The Rwandans would not have been able to get hold of them because they are all refugees in other countries. The countries of residence would not have been able to perform a judicial process against them because they usually lack resources and interest and they might not even be able to find them. Their response might have been not accountability, not impunity, but revenge and that's what we want to avoid isn't it?

The second task which we think we have made a contribution in this field, in Arusha, is of course the development of international criminal law. It's very important to remember that this is about a very new area. Thirteen years ago, there were no international courts; neither the Yugoslav Tribunal nor the Rwanda Tribunal existed. Nothing had happened at the international level since Nuremberg and Tokyo. Since then there has been a proliferation of ad-hoc courts and even a permanent court and this work to formulate new legal principles in an area where there may be

lack of legal sources, lack of precedence is one of our most inspiring and for the ICTR this has resulted in the first conviction against genocide, the first conviction of a State Leader: a Prime Minister. It was not Milosovich who was the first Leader, it was Jean Cambander, the Prime Minister of Rwanda and his case was also quite extraordinary in the sense that he pleaded guilty to genocide. A Prime Minister pleading guilty to genocide. We have had many cases establishing the borderline of genocide, many cases drawing up the limitation and the legal definition of rape at the international level. And we have also cases underway about the media at the appeal stage for the time being. We think we have made a little contribution there as well.

And then the third area again in summary form. I think we have proved that international criminal justice works. That's not obvious: we are talking about eighteen judges in Arusha coming from quite different legal systems, legal traditions. Some have the death penalty at home, others have not. Their systems are widely different. The Lawyers coming from each country of each five continents, some of them wearing their national robes. We have had distinguished Queens Counsel from London down in Arusha and we have had previous Ministers of Justice of the United States pleading before us. There is good quality in Arusha also at the defence counsel and prosecution side. The interesting point, I think, is in spite of this legal and cultural and linguistic diversity we still seem to be, all of us, on the same wavelength. We very seldom disagree. When the Judges withdraw to the Judges' room and deliberate it's amazing how few dissenting opinions there are. I find that quite extraordinary: it's a creative process which it's a privilege to be part of. We come there with our national luggage but we have to leave it at the door. When we enter the tribunal it inspires us but it doesn't command us: we are their international judges applying international legal arguments. And I think it works well. Sometimes one of us will say 'at home we will do it this way but I realise that here we must find a different solution, let's find out what is here'. And I think that's maybe our guideline.

We are working then at full throttle. We have about fifteen to twenty people coming in every day with the bus from our detention centre. We have four court-rooms, you may wish to know that one of them, the fourth, has been donated by the British and the Norwegian government on a voluntary basis – we are grateful for that – and that has made it possible to speed up our work even more.

We will return, or I will return to Arusha in a couple of week's time after a little summer vacation. It will certainly be an inspiration that I have been here in Essex. It's one of those moments in life you will never forget. I will convey the atmosphere; the whole support that I feel is being expressed here in Essex to our tribunal. It will be conveyed to everyone from the Judges to the Lawyers to the security officers, the courtroom staff, the court stenographers, everyone working. We are about eight hundred people in Arusha. It is hard work; it's not easy work. I just came out from a case where we had been sitting for one hundred and eight days in one case, but it's an inspiring work. We feel that it's a privilege to be part of it and it's in this light that we are extremely grateful in Arusha also for this occasion.

Thank you very much indeed.