We are indebted to Jean C. Albert and his learned colleagues for this most comprehensive overview of the evolution of international criminal law. The future of humanity may well depend upon man's capacity to apply a rule of law that will restrain the illegal use of armed force for the settlement of international disputes.

For many centuries, the use of armed might was hailed as a national right and the acceptable road to riches and power. After countless millions had been killed in World War Two, the Nuremberg war crimes trials at Nuremberg took a great step forward toward a more humane world. It held that aggression was not a national right but the "supreme international crime" for which responsible leaders could be held to account in a court of law. It would be unreasonable to expect that what was glorified through the ages could be radically changed in a short period of time.

The difficulties encountered in trying to gain universal acceptability for the Nuremberg principles are sketched in the book "L'avenir de la justice pénale internationale". There can be no doubt that progress toward a more humane world has been phenomenal. Despite grave difficulties and differences, new international courts were created to deal with some of the most horrendous crimes committed in all wars. The UN Security Council created courts designed to hold génocidaires accountable. The new International Criminal Court in The Hague (the ICC) began to function, despite enormous difficulties. Many national courts sought to enforce new laws to punish atrocities and war crimes. Declarations abounded calling for protection of human rights. There was a slow awakening of the human conscience.

This is not to suggest that any of the new institutions was perfectly run or free from justified complaints. They were all prototypes of institutions that had never before existed. I have no doubt that improvements will come with time and experience and there is no cause for despair.

Among the recognized obstacles still to be overcome is the universality problem. To be effective, international law must be accepted universally. With many nations still in a development stage, it cannot
be expected that progress will be rapid. The existence of modern means of communication will accelerate the learning process, but patience will be required. Knowledge of the history of law is vital.

A rational world order requires 3 basic components: 1- laws to define what is permissible; 2- courts to determine if the laws are violated; and 3- a system of effective enforcement. Progress on points 1 and 2 have been significant in my lifetime. Serious academic or governmental action on universal enforcement still has a very long way to go.

One of the saddest facts in the evolution of international criminal law is the continued failure of major powers to accept restraints on their presumed sovereign right to decide for themselves when they may resort to armed force. By December of 1946, during its earliest sessions, the UN General Assembly had already unanimously affirmed the principles of the Nuremberg Charter and Judgment and called for the creation of an international criminal court to enforce a code of crimes, including what had been branded at Nuremberg as the “supreme international crime”. A consensus definition of aggression was reached in 1974, defining the act of aggression, yet without placing it within the context of a criminal statute whereby its perpetrators may be brought to justice. Thus, the 1974 consensus resolution, of itself, had little immediate impact.

On 14 December 2017 a different assembly –the Assembly of States Parties of the ICC– adopted a new consensus resolution, activating the ICC’s jurisdiction over the crime of aggression. Although hailed as another step forward, the ICC’s jurisdictional regime for the crime of aggression assures that those who are most likely to commit the crime are among those who are least likely to be tried for it. Other than for aggression cases referred to the ICC by the Security Council, States Parties may avoid the Court’s jurisdiction on aggression by either issuing a simple notification that they do not accept such jurisdiction or by simply failing to ratify the recently activated aggression amendments. It took over 70 years before even such a porous consensus was reached. Unconditional acceptance by many ratifying nations is surely a sign of progress, yet major powers, led by the United States, are not ready to yield their power to go to war when they see fit.

It is high time to break the impasse and for all nations to agree that war-making itself is the supreme international crime against humanity and that it should be deterred by punishment universally, wherever and whenever offenders are apprehended.
As I prepare to enter my 99th year, I am gratified by the work that so many others are doing in helping to bear the torches which will light mankind’s path forward. In pointing the way to a more peaceful world governed by law, this book plays a valuable role in that effort.

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