

Communication | Ecological Economics

Ecological crimes as crimes against humanity?

He spoke at greenreport Cuno Tarfusser, Vice President International Criminal Court

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Luke Aterini

On the basis of the Rome Statute, which entered into force July 1, 2002, was born the International Criminal Court, a permanent international tribunal that - as you can read directly on its website - was established to "investigate, prosecute and try persons accused of committing the most serious crimes of concern to the international community as a whole, namely the crime of genocide, crimes against humanity, war crimes and the crime of aggression."



After the Nuremberg and Tokyo tribunals established after the Second World War, the idea of an international criminal justice system emerged after the end of the Cold War, only to ultimately find concrete expression by the Court. But times change places, now, the blossoming of new legitimate questions about the meaning to be attached to a system of international criminal justice. The growing global human impact on the ecosystem of the human economy is accompanied by increasing difficulties of democratic institutions to confront and address the changing economic, ecological and social progress. Within this context, no longer seems so ethereal the define and recognize what could be called "ecological crimes" as real "crimes against humanity".

Greenreport.it contacted Cuno Tarfusser (*Photo is from Alto Adige*) - Italian only judge of the International Criminal Court, and recently elected as vice president of the same - for a comparison and a discussion on the topic, which will be published daily on our two-part, between today and tomorrow.

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"International justice, in this respect, basically does not exist, but also within individual states, on these themes justice fails to operate variably, and still very effective. But surely, the debate on the need for stronger judicial control is open, and is present to varying degrees, and in many states, but also internationally. In the latter regard I think particularly of the initiatives promoted by the International Environmental Sciences (IAES) which promotes and seeks to keep alive the debate on the prospect of providing for environmental crimes such as crimes against humanity by giving jurisdiction to the ICC .



"First I would note that to date, 121 States that have ratified the Rome Statute, or about two thirds of all the sovereign states of the world, and this certainly is an important finding. Equally significant is to note how the ratification process is a process *going on*: since I've been to the Court, or three years, are 14 states that have ratified the Statute. We must realize that the creation of a supranational criminal jurisdiction is a deep cultural change, which conflicts with the secular idea of national sovereignty in the punishing authority is one of the greatest expressions. Is a step of no small account, and then, but 121 countries have already decided to make this leap, clearly reflected a trend toward overcoming the logic of strict national sovereignty jealously defended.

Having said that, as regards the U.S., Russia and China, while it is understandable their reluctance to accept a transfer of sovereignty, the other one must observe that there is already a rapprochement. This states, in particular the U.S., are keen observers of the Court and as such participate in the Meetings of States Parties. As regards in particular the United States other than the climate in relations with the International Criminal Court since the days of Bush is clear. Aversion towards the Court has replaced a lot of interest, but there are probably still in the parliamentary majority necessary for a formal ratification by the U.S.. I am convinced that we are now, to the Court, the judges demonstrate efficiency, independence and authority, in order to convince these countries of the goodness of the project CPI for the whole international community.

That said, and returning to current, non-ratification of the Rome Statute by China, Russia and the U.S. certainly leads to anomalies. The member states of the UN Security Council (which the U.S., China and Russia as permanent members belong), in fact, can activate the International Criminal Court reporting conflict situations to be investigated also with respect to States not Party to the Statute: so much for be concrete, that Sudan is Libya - both states not party to the Statute of Rome - are under investigation by the Court following resolutions of the Security Council. We therefore have a fault for which a body, the Security Council, which includes states that do not recognize the Court, the Court itself delegate investigative powers and criminal jurisdiction, without contribute financially. "

Gustavo Zagrebelsky, president emeritus of the Italian Constitutional Court, recently wrote that *"To satisfy appetites of today, has not paid any attention to the needs of tomorrow. Every generation filled immediately acted as if it were the last, dealing with the resources available to it as his exclusive property, including use and abuse, "then as suggesting" the category of duty "rather than that of the individual right, it is more useful in cases like this, when there is a breakdown of the "time units". "Subsequent generations have no rights to claim against the previous ones, but these have duties towards those 'what do you think?*

However, talk of a new international environmental court independently, as well as a possible attribution to the current International Criminal Court of a jurisdiction extended to a hypothetical crime, environmental disasters, is to talk about things that are still to come . Only recently has begun to actually discuss these issues, and before you realize something at a level they will acceptably international water under the bridge. A little 'as it did for the International Criminal Court which began discussing since after the Second World War but whose implementation was hindered by the Cold War. We had to wait for the right conditions come true historical and political (the end of the Cold War, the fall of the Berlin Wall, serious conflicts in different parts of the world) to find only in 1998 an international consensus for the creation of the Court. At the moment on the field of environmental sensitivities at the international level are very different, while the effectiveness of the judiciary is given only if it is able to encompass countries that cover a significant chunk of the world, with the prospect of one day to incorporate them all. As things stand, it is difficult to think that the big polluters that were not signed international agreements aimed at reducing the level of global pollution they decide to ratify an international court on environmental crimes ... ".

This conclusion leads me to observe that China, the U.S. and Russia - three of the five permanent members of UN Security Council - does not adhere to the Rome Statute, and therefore even the International Criminal Court. They are, inter alia, states the decisive international influence, among the richest and the most important anthropogenic impacts on the ecosystem: in general, how it affects the scope of the Court's non-adherence by players of this caliber?

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"I have neither the authority nor the authority to contradict Zagrebelsky, however, and I fully endorse his message. I can see, for example, reflected very well in Africa, where the Court today is more committed. Through colonization, we went to this western continent to plunder raw materials, not minding at all the needs and rights of indigenous peoples, and this predatory behavior, short-sighted, selfish and abusive we are now coming back as a boomerang through the migration of which now we complain. If the settlement had been a resource not only for the settlers, but also for the colonized, perhaps now they would be better, and probably this boomerang effect there would be, and we would not have left the area very heavy situations that have then declined in genocide and civil wars. There is no doubt that our history we have not learned anything, unfortunately, because of human myopia that always looks to the interest immediately. Policy also looks to the present, because only from today may draw new votes. "

This could be defined as the *problem of time*, as confirmed by psychologists, seems to be a regular human being. He thinks that the system of laws, or rather justice, as well as the democratic institutions that we as a society, can in some way to intervene?

"Justice, or rather, judicial systems, supra-national as well as our country, are an expression of society in which we live and practical translation of this legislation that the policy - and therefore democratic institutions representing the people - considers relevant in criminal terms. If the company, represented by the policy, does not consider relevant to certain conduct, such as environmental pollution, should be investigated and punished, justice can not help it. "