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The arrest of Radovan Karadžić on charges of genocide, extermination, murder and various other crimes against humanity and war crimes has brought the International Criminal Tribunal for the Former Yugoslavia back to the centre of public attention in a way that has not been the case since the death of former Yugoslav ruler Slobodan Milošević led to the termination of proceedings against him in March 2006. It may in due course have to compete with an even bigger international law story: shortly before the Karadžić arrest, the prosecutor at the International Criminal Court (ICC) Luis Moreno-Ocampo presented his case against the serving Sudanese president Omar Al Bashir for genocide and crimes against humanity arising out of the alleged conduct of Sudanese forces in Darfur. The court must now decide whether to allow the case to proceed; if it does an arrest warrant is a not unlikely first procedural step. Just ten years after the adoption in 1998 of the Rome Statute for an International Criminal Court, the once unthinkable – the arrest not only of the alleged bad guys of the past but of suspected war criminals among current heads of state as well – may be on the way to becoming almost routine.

This shift away from respect for national autonomy to an insistence on personal responsibility that pierces right through the sovereign veil could over time come to be viewed as one of the most important international law developments of the first decade of this century. The idea of trials on this sort of scale had become moribund in the years following the post World War II proceedings in Nuremberg and Tokyo before the horrors in Rwanda and Yugoslavia in the early 1990s led to their revival, albeit initially only in these highly particular contexts. These courts did however prepare the way for the International Criminal Court which operates on an altogether more general mandate. Even though it is not universally supported by powerful nations (none of the US, China or India is among the 106 states that have so far signed up), the court has the bureaucratic and institutional momentum to push the process along in a way that can produce dramatic results, as with this threatened action against President Al Bashir. The goal is a global community in which egregious breaches of the laws of war and of basic human rights are as likely to be prosecuted as the actions of mass murderers, sadists and organised criminals who happen not to be within government.

Inevitably there are difficulties en route to this attractive legal Nirvana. The most obvious and easiest to deal with is the allegation of double standards. In these early days the court's successes have been against the weaker players on the world stage, those who are not strong enough or who do not have powerful enough international friends to resist the prosecutor's attention, a disturbingly disproportionate number of Africans for example. As the Sudanese Ambassador to the UN memorably said of the ICC prosecutor, 'He is a screwdriver in the workshop of double standards.' But any large change like this is bound to be uneven at first – double-standards are the temporary price we may have to pay while we reorient common sense in a new direction. The Al Bashir action could be a harbinger of stronger action against other leaders (not all African) that may soon be on the cards. Even if this is not the case, from a human rights/criminal law perspective, it has never been a defence to murder that other miscreants have not been apprehended.

A trickier objection is that international prosecutions are always bound to be show trials. This was immediately an issue at Nuremberg and Tokyo and is hard to avoid today as well – how can the ordinary presumption of innocence apply in such high-profile cases with so much believed to be already known about the accused persons before the court? The rules of evidence also often leave much to be desired in such cases – the over-use of anonymous witnesses being one such example. Then there is the risk of a 'show-trial' in the opposite sense, with the accused using the criminal proceedings to conduct an apologetic for his politico-criminal career, as Milošević appears to have done and Karadžić now threatens to do. On the other hand the Kosovan prime minister Ramush Haradinaj was recently acquitted by the Tribunal for the Former Yugoslavia after having quietly submitted to its jurisdiction and allowed himself to be tried, so such outcomes are possible. (I should declare that I was involved in putting together Mr Haradinaj's defence team.)

The third objection to this kind of international jurisdiction is the most serious, that it gets in the way of political processes designed to secure peace, that it imposes the rule of law in the non-legal world of diplomacy where it does not belong and that by behaving as the ethico-legal bull in the realpolitik china shop it causes more damage than it is worth. However this assertion is often over-stated: the Milošević trial did not lead to a rejuvenation of Serbian nationalism and even in the immediate aftermath of his arrest the crowds mustered in support of Radovan

Karadžić were small. Kosovo survived the arrest of its prime minister who is now returned to his community with his authority enhanced. The Al Bashir action by Mr Moreno-Ocampo has not produced the chaos that was widely predicted: quite the reverse in fact with political initiatives being taken now that were simply not on the cards before the prosecutor acted.

The ICC faces a difficult choice when it comes to determine whether to allow the proceedings against President Al Bashir to proceed. There are also other issues affecting the court, not the least of which is a recent finding by a respected independent tribunal of serious procedural malpractice by the prosecutor in relation to a sensitive staffing matter, something which may yet make it too difficult for Mr Moreno-Ocampo to remain in office. But even if he were to go, there will be other prosecutors and it is likely there will also be other big cases. In time even some of the big sovereign states (the post Bush US for example) may join up. It does seem as though the International criminal Court is here to stay.