

Preface

The establishment of the International Criminal Court (ICC) on 1 July 2002 was a landmark development in the quest for universal justice. Now, for the first time, there is a permanent international body that can take jurisdiction over the prosecution of genocide, crimes against humanity and war crimes when States are unwilling or unable to do so.

Commonwealth Heads of Government were early supporters of the ICC. At their meeting in Edinburgh in 1997, they “expressed their belief that an International Criminal Court would be an important development in the international promotion of the rule of law”. After the adoption of the Rome Statute of the ICC, at their meeting in Coolom, Australia in 2002, Heads of Government “encouraged member countries to accede” to it. It is only fitting, therefore, that this Commonwealth Guide has been developed in support of effective domestic prosecution of international crimes and full implementation of the Rome Statute.

While the ICC brings an important new component to international criminal and humanitarian law, it does not represent a means by which States can abdicate responsibility for bringing to justice the perpetrators of the most serious crimes of concern to the international community. Quite the contrary is true. The Preamble to the Rome Statute recalls that:

“it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.”

In fact, a case is only admissible before the ICC if the State that has jurisdiction over the crime in question is either unwilling or unable genuinely to carry out the investigation or prosecution. Each nation must thus play its part in ending impunity for those who commit international crimes. For this to be achieved, States parties to the Rome Statute need to put in place comprehensive and effective implementing legislation. Efforts to assist States with the adoption of such laws are ongoing.

This Guide is part of these efforts. With contributions from a number of experts who have in-depth knowledge of both the Rome Statute and national laws, its aim is to give practitioners access ‘at a glance’ to the world of the ICC and to help build domestic capacity within Commonwealth countries to conduct prosecutions of international crimes.

History has made clear that there can be no peace without justice. The aim of the ICC and the prosecution of international crimes is to achieve peace through justice. It is our hope that this Guide will help further efforts towards full implementation of the Rome Statute and make a positive contribution to the ongoing endeavours of Commonwealth States to end impunity for those who commit the most serious of crimes.

Don McKinnon

Commonwealth Secretary-General

