



**Cour
Pénale
Internationale**

**International
Criminal
Court**

Le Président
The President



Judge Sang-Hyun Song
President of the International Criminal Court

Keynote remarks at the event

“Promoting Accountability for Human Rights Violations – Forging Effective and Efficient Litigation of International Atrocity Crimes”

organized by the International Criminal Justice Consortium and The Kingdom of the Netherlands, on the occasion of Human Rights Day.

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Excellencies, Ladies and Gentlemen,

I would like to thank the International Criminal Justice Consortium and The Kingdom of the Netherlands for organising this event on the occasion of Human Rights Day.

The ICJC has undertaken notable efforts to pool the expertise and resources of reputable organisations such as the American Bar Association, which is represented here today. Your commitment to the ICC is very much appreciated.

The Netherlands has been a strong supporter of the ICC since the very beginning, and it has a special connection with the Court as its Host State. We likewise have an excellent relationship with our Host City, The Hague, which is also known as “the legal capital of the world” and “the International City of Peace and Justice”. I am truly grateful to the Netherlands and the City of The Hague for their partnership and efforts to promote awareness of the ICC’s mission.

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When the United Nations General Assembly adopted the Universal Declaration of Human Rights on 10 December 1948, it was the first time that the international community articulated in detail fundamental rights and freedoms that belong to all human beings without distinction.

Fifty years later, the adoption of the Rome Statute of the International Criminal Court (ICC) represented another ground-breaking development toward a more humane world.

In Rome, in the late evening of 17 July 1998, the community of nations came together in the face of a moral duty to act collectively in order to protect the most fundamental human values.

I do not think that it would be an exaggeration to compare the spirit of the Rome Conference to the spirit of the Universal Declaration of Human Rights.

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While the ICC is not a human rights court in the strict sense, it *was created* to help protect core *human* rights and values.

The crimes under the ICC’s jurisdiction – genocide, crimes against humanity and war crimes – inherently involve violations of the **right to life and liberty**, as well as other violations such as **torture** and **slavery**.

These crimes also have far broader implications.

Large-scale atrocity crimes frequently cause the breakdown of social structures, denying a series of other rights set out in the Universal Declaration, from the **freedom of expression** to the **right to an adequate standard of living and education**. In many a time,

discrimination based on gender, race, ethnicity, or religion goes hand in hand with international crimes.

The unprecedented focus on victims in the Rome Statute provides another important platform for advancing human rights through the ICC.

At the ICC, victims can participate in proceedings with free legal assistance where appropriate, they can request reparations, and they may also be able to benefit from humanitarian assistance provided by the Trust Fund for Victims.

These are major steps forward in implementing the **right to a remedy** in international criminal proceedings, and increasing attention on the **economic and social rights** of affected communities, adding a restorative element to the more traditional retributive aspect of criminal justice.

A strong commitment to human rights is also reflected in the **fair trial** provisions of the Rome Statute, which are consonant with the globally accepted human rights standards.

Indeed, with its mandate to fight impunity for the most serious crimes under international law, with its adherence to rights of the accused, and with its progressive provisions regarding victims, one could say that the ICC is a criminal court with a strong human rights perspective.

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A purpose is important, but how do we turn that into concrete results? The ICC is working hard at that, more actively than ever, with a constantly growing amount of investigations and cases. However it is obvious that the ICC will never be able to stop impunity on its own. And that was never the intention. Rather, it must be a joint effort of national jurisdictions and international institutions. This is the essence of what we call the **principle of complementarity**.

One of the most important foundations of the international criminal justice system as established by the Rome Statute is the structural relationship of the ICC and national jurisdictions.

The ICC is a court of last resort, a kind of a stop-gap mechanism to prevent impunity. It can investigate and prosecute only when national jurisdictions in question is unwilling or incapable of doing so.

Conversely, this means that the ICC is built on the idea that it is primarily the job of States themselves – that is, of their national judicial systems – to investigate and prosecute serious international crimes.

Membership in the ICC is therefore an incentive for States to update their criminal laws and to make sure that their police, prosecutorial and judicial services are able to deal effectively with serious crimes.

In this way, the principle of complementarity allows the Rome Statute system to advance the struggle against impunity at two levels simultaneously, (1) strengthening the global structures for the protection of fundamental human values, while (2) respecting and reaffirming state sovereignty and encouraging the capacity-building of national mechanisms to uphold the rule of law.

Effective complementarity is the only way to end impunity. No matter how much the ICC does, at the end of the day it will always be a court of last resort that deals with a limited number of cases. Domestic justice systems should be well equipped to deal with Rome Statute crimes so that they can serve as a strong primary line of defence against impunity.

In a national setting, this requires, among other things, that States have an independent judiciary, public support for accountability, a good legal framework; and the necessary skills and resources for proper investigations, prosecutions, trials, witness protection and so forth.

For this reason, it is very important that the capacity building of national jurisdictions is mainstreamed into rule of law and development agendas. In this respect, I appeal to the relevant agencies of the United Nations, and to all other actors in rule of law and development, to pay due attention to Rome Statute related issues.

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Excellencies, ladies and gentlemen,

In my opinion, **deterrence** is the overriding, ultimate goal of the entire international criminal justice system that we are building, with the ICC at its apex.

In certain situations, where the lives and security of entire communities are threatened by mass violence, the risk of prosecution before the ICC may be the crucial and unique deterrent that will stop leaders from abusing their position to the peril of innocent civilians.

History has showed that in the face of the worst atrocities, national systems are sometimes either unwilling or unable to act, for instance due to the partial or complete breakdown of their domestic judicial infrastructure, or because of political reasons, in particular if the suspected perpetrators are high ranking persons close to the country's leadership.

This is why we need an effective and independent permanent international criminal court, to provide a strong deterrent effect.

The ICC system aids prevention also by other means. As more and more States harmonise their national laws with the Rome Statute, and as we spread global awareness about the need for accountability, we can see progressive entrenchment of both legal and social norms prohibiting mass violence.

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It is remarkable how far we have come with the ICC, but at the same time, countless challenges remain ahead of us, and a tremendous amount of work remains to be done.

Some of the key challenges concern the effectiveness and efficiency of the ICC.

For effectiveness, the cooperation of States is absolutely crucial. By joining the Rome Statute, States accept the responsibility to cooperate fully with the investigation and prosecution of cases at the ICC. The various forms of cooperation range from the production of evidence and facilitating access to witnesses to arrests, freezing and seizing of assets, and the enforcement of sentences.

It is vital that States provide timely and comprehensive cooperation to the ICC. Otherwise we cannot fulfil our mandate effectively. In this respect one of our frustrations has to do with the fact that when the UN Security Council referred the Darfur and Libya situations to the ICC, it did not impose an obligation on all UN member States to cooperate fully with the Court on these investigations.

Furthermore, the Security Council has not done much to help us overcome serious cooperation problems with Sudan and other countries.

Much like States have the obligation to respect, protect and fulfil the effective enjoyment of human rights, governments can play a key role in raising awareness about international criminal justice and inducing a public atmosphere supportive of accountability.

The ICC also has to do its own homework. We all know that international trials are by their very nature complex and lengthy, but that is no reason not to make every effort to speed them up. And indeed the ICC is working very hard on improving its efficiency and the expeditiousness of proceedings while fully respecting the procedural and human rights of suspects and the accused.

For this purpose we have developed a “lessons learned” exercise to streamline the judicial process and we continue making steady progress.

Excellencies, ladies and gentlemen,

I am positive that the promotion of the ICC means promotion of human rights, and advancement of international criminal justice means advancement of human rights.

At a time when the international community is grappling with reports of terrible atrocities in various parts of the globe, it is more important than ever to promote the universality of the Rome Statute.

It has been a monumental decade for international criminal justice, but the fact is that large parts of the world’s population fall outside the legal protection provided by the Rome Statute system.

That includes citizens of the United States.

Let me recall that the U.S. played an important role in the birth process of the Universal Declaration of Human Rights.

And this country is no stranger in international justice. From Nuremberg and Tokyo to the establishment of the *ad hoc* and hybrid tribunals in the last two decades, the U.S. has usually pushed hard for international justice. And in the last years it has been willing to show a stronger commitment to positive engagement with the International Criminal Court.

Ratification of the Rome Statute by the United States would no doubt encourage countless other countries to join the ICC as well. This would be an enormous boost to international efforts to protect the vulnerable from the most brutal acts of violence.

There is no doubt that the U.S. is one of the world leaders in areas ranging from science and popular culture to industry and trade.

I call upon the United States to exercise its leadership and influence in international criminal justice as well, by ratifying the Rome Statute as soon as possible.

Let us remember that today's world is strongly interconnected. No country can prosper in isolation. If we want to ensure a safe, peaceful and harmonious life for our children and grandchildren, as well as people everywhere on the planet, we have to take joint action to enhance the protection of all individuals.

As President of the ICC, I have invested a lot of effort into encouraging more States to join the Rome Statute system. Time and again, I have engaged in lengthy discussions with government leaders, policymakers, parliamentarians and civil society.

I have clarified misperceptions, explaining that the ICC is not a replacement of national courts, and that ratification will not give the ICC any powers to dig up things of the past.

Joining the ICC is not a method for settling old scores – it is an insurance policy for a better future, both for the State that joins, entering the protective shield of the Rome Statute system, as well as for the rest of the world.

States should not only ask “what will it give us”; they should also ask, “what will it give to humankind”.

I want us to build a world where borders will not be an excuse for impunity and where everyone knows that accountability for international crimes is inevitable.

It is only with concrete actions both at the local and international level supporting the ICC's mission that we can get closer to ending impunity for atrocious crimes that cause untold suffering to our fellow citizens of the world.

Thank you.