

**Cour
Pénale
Internationale**



**International
Criminal
Court**

**Judge Sang-Hyun Song
President of the International Criminal Court**

Address to the United Nations General Assembly

*New York
1 November 2012*

Mr. President,

Excellencies, distinguished delegates, ladies and gentlemen,

I am honoured to take the floor before you for the fourth time to deliver the International Criminal Court's annual report to the United Nations.

Coming to the General Assembly on behalf of the ICC gives me the feeling of a grown-up child returning to his or her parental home once a year to talk about progress in studies, in work, in life.

At ten years old, the ICC is a thriving, independent organisation with broad support. It is the centrepiece of a new justice paradigm, joined by 121 States that have decided to bolster their national jurisdictions with an international court of last resort in order to prevent impunity for the gravest crimes known to humankind.

This achievement would not have been possible without the formative role of the United Nations, and specifically the General Assembly, in the history of the International Criminal Court.

This Assembly is where the seed of the ICC was first planted, with the adoption of the Genocide Convention and the early work of the International Law Commission.

This is where the process was revived in 1989 following the proposal by Trinidad and Tobago, and it was the General Assembly that established the Preparatory Committee on the Establishment of an International Criminal Court.

And as you know, the Rome Statute of the ICC was adopted under the auspices of the United Nations on 17 July 1998.

On 1 July 2002, the Rome Statute entered into force, and from there on the ICC has stood on its own feet, separate from but closely connected to the United Nations through our relationship agreement.

During its first decade, the ICC has firmly established its role in a multilateral system that aims to end impunity, and I welcome the General Assembly's recognition of this role in the Declaration of the High-level Meeting on the Rule of Law held on 24 September.

On behalf of the ICC, its elected officials and staff, I thank the General Assembly for all the support we have received from you.

Mr. President,

The ICC's written report provides a comprehensive update on the Court's judicial proceedings in the period from 1 August 2011 to 31 July 2012. Today I will only highlight the most important developments that have taken place since I last appeared before this Assembly.

There have been some important institutional developments. Ms. Fatou Bensouda was sworn in as the second Prosecutor of the ICC, six new judges were elected, and the new President of the Assembly of States Parties took up office.

The ICC has continued investigations in seven situations: the Democratic Republic of the Congo, Uganda, the Central African Republic, Darfur, Sudan, Kenya, Libya and, finally, Côte d'Ivoire.

Furthermore, the Court has been seized of an eighth situation, following the Mali government's referral of the situation in Mali since January 2012 to the ICC Prosecutor on 18 July this year. The Prosecutor is currently conducting a preliminary examination to determine whether the criteria for opening an investigation are fulfilled.

Let me briefly address the state of judicial proceedings in each of the seven active situations.

The situation in the Democratic Republic of the Congo was the first investigation opened by the ICC Prosecutor, in 2004, following a referral by the country's government. The ICC's first trial, of Mr. Thomas Lubanga Dyilo, arose from this situation.

On 14 March 2012, Trial Chamber I rendered its verdict in the case, finding Mr. Lubanga guilty of the enlistment, conscription and use of children under the age of 15 to participate actively in hostilities in the Ituri District between September 2002 and August 2003.

On 10 July, the Trial Chamber sentenced Mr. Lubanga to 14 years' imprisonment. On 7 August, the Chamber issued the ICC's first decision on reparations for victims, establishing principles relating to reparations and tasking the Trust Fund for Victims to collect proposals for reparations from victims.

Let me stress that the verdict, sentence and reparations decision in the case of Mr. Lubanga are all under appeal and therefore not yet final.

The second trial relating to the conflict in Ituri, against Mr. Katanga and Mr. Ngudjolo Chui, concluded in May this year with closing statements. The Trial Chamber is expected to issue its judgment in the coming months.

The ICC's third case related to Ituri is against Mr. Bosco Ntaganda, who has evaded justice for the last seven years. In July this year, a second arrest warrant was issued for Mr. Ntaganda, expanding the allegations against him from the use of child soldiers to murder, rape, sexual slavery and other crimes.

In other developments related to the Democratic Republic of the Congo, Mr. Callixte Mbarushimana was released from custody on 23 December 2011, following the Pre-Trial Chamber's ruling that there was not sufficient evidence to substantiate the charges against him.

In the meantime, a new arrest warrant has been issued on the basis of allegations related to the Kivus region against Mr. Sylvestre Mucadumura, who currently remains at large.

In the situation in Uganda, arrest warrants against Mr. Joseph Kony and three other alleged leaders of the Lord's Resistance Army remain outstanding since 2005. I find this unacceptable and an affront to all those affected by the conflict in Northern Uganda. Once again, I strongly urge all relevant States to cooperate with the goal of bringing these persons to justice without delay.

In the situation of the Central African Republic, the ICC's third trial, that of Mr. Jean-Pierre Bemba Gombo, has moved to the defence phase. The trial proceedings will continue well into the next year.

Mr. President,

In the situation in Darfur, Sudan, one case is at trial preparation phase – that of Mr. Banda and Mr. Jerbo, accused for alleged crimes committed during an attack on African Union peacekeepers.

Last week, the Trial Chamber rejected the defence request for a stay of proceedings and requested submissions on the date for the commencement of the trial.

A new arrest warrant was issued in the Darfur situation on 1 March 2012 against Mr. Abdel Raheem Muhammad Hussein.

Regrettably, Mr. Hussein remains at large, and arrest warrants also remain outstanding in relation to three other persons in the Darfur situation. I call upon all States to cooperate with a view to executing these arrest warrants, for the suspects to face the grave allegations against them.

The two cases in the situation in Kenya have progressed from pre-trial to trial phase. Of the six suspects, the Pre-Trial Chamber confirmed the charges relating to post-election violence against four of them, while releasing the two others. Two trials, each involving two accused, are set to start next April.

Significant developments have occurred in the situation in Côte d'Ivoire since I last addressed you. An arrest warrant was issued in relation to the former President of the country, Mr. Laurent Gbagbo, and he was surrendered to the ICC on 30 November 2011. The case is currently at pre-trial stage.

I now come to the situation in Libya. The two suspects subject to ICC arrest warrants, Mr. Saif Al-Islam Gaddafi and Mr. Abdullah Al-Senussi, are in the custody of Libyan authorities. An admissibility challenge made by Libya is currently pending before the Pre-Trial Chamber.

In the context of the Libya situation, the ICC experienced last summer a serious crisis when four of our staff members were detained in Zintan, Libya, in the course of their official duties. I would like to extend the ICC's sincere gratitude to the United Nations and the many member States that helped the ICC to secure the release and safe return of our colleagues.

Mr. President,

Without the assistance of States, the ICC cannot perform its mandate effectively. I fully agree with the emphasis that the Assembly's Declaration of 24 September placed on cooperation with the ICC.

Cooperation is not merely a question of discharging obligations contained in the Rome Statute. The international community – including the General Assembly – has on multiple occasions declared its determination to end impunity for the gravest crimes. Cooperation with the ICC is a concrete way to give effect to that objective.

A historic first debate on the ICC's role held in the Security Council on 17 October was a useful reminder of the specific challenges that cooperation poses in situations referred by the Council, namely Darfur and Libya.

In these situations the ICC is exercising its mandate on behalf of the UN membership as a whole in that they were referred to the ICC by the Security Council on the basis of the UN Charter.

By way of resolutions adopted under Chapter VII, the Security Council has urged all States to cooperate with the ICC in the context of the Darfur and Libya situations.

The question of expenses incurred by the ICC in the context of the referred situations was also discussed during the Security Council debate. In this respect, I am grateful that the General Assembly, in its resolution of 16 May 2012,¹ invited all States to consider making voluntary contributions toward such expenses.

Mr. President,

The Rome Statute empowers victims in multiple ways: as participants in judicial proceedings, as recipients of reparations following a conviction, and as beneficiaries of victims' assistance provided by the Trust Fund for Victims that is associated with the ICC.

¹ A/RES/66/262

Here, the Rome Statute system has unprecedented potential to bring retributive and restorative justice closer to each other.

Through its engagement in situation countries, the Trust Fund for Victims is able to give a human face to the process of international criminal justice. It has continued its important work with victims in northern Uganda and the Democratic Republic of the Congo. Furthermore, it has officially notified the Pre-Trial Chamber of its intention to undertake programmes in the Central African Republic, initially focusing on victims of sexual and gender based violence.

The assistance that the Trust Fund for Victims is able to provide to victims depends upon voluntary donations, which are also needed to fund reparations when a convicted person is indigent. As we get closer to the implementation of the first reparations orders, the Trust Fund is in greater need of financial support than ever before.

I would like to thank those States that have already generously supported the Trust Fund's important work, and call upon others to join them in doing so, for the benefit of the victims of unspeakable crimes.

Mr. President,

Excellencies, Distinguished Delegates,

The Rome Statute system has changed the way the world looks at grave crimes under international law. With the advent of a permanent international court to prosecute such crimes, national jurisdictions have simultaneously been encouraged and empowered to prevent impunity.

As the UN Secretary-General has said, “justice is crucial for breaking cycles of violence and fragility”, and “[e]ven the possibility of ICC engagement in a given situation can create an incentive to set up local mechanisms to deliver justice”.

I suffered the horrors of war as a small child. I would not want anyone to experience what I went through in my childhood.

By enforcing norms of international law protecting those most vulnerable, with special attention to the needs of children and women, the ICC represents a giant leap in humanity’s efforts to ensure lasting peace and security for everyone.

The ICC is independent, but at the same time it is still your court. You, the community of nations, created it, out of the desire to protect the most fundamental values of concern to humankind as a whole.

I wholeheartedly endorse the Assembly’s call upon States not yet party to the Rome Statute to consider joining the ICC. Preventing grave crimes and combating impunity is a shared interest of the entire international community.

As the ICC enters its second decade, it remains firmly committed to upholding the rule of law and the principles of judicial and prosecutorial independence, guided by the Rome Statute and inspired by the common goals of humanity – values that we share with the United Nations and this Assembly.

Thank you very much.