

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

*Remarks to the Assembly of States Parties
9th Session*

*New York
6 December 2010*

Mr. President of the Assembly, Mr. Secretary-General,
Mr. President of Colombia, Excellencies,
Distinguished delegates, Ladies and Gentlemen,

It is my pleasure to address the 9th Session of the Assembly of States Parties to the Rome Statute. On behalf of the International Criminal Court, I wish to greet all the representatives of States Parties as well as all those who have joined this meeting on behalf of non-States Parties, civil society and international organisations.

I feel particularly honoured that United Nations Secretary General Ban Ki-moon, as well as President Juan Manuel Santos of Colombia are with us today.

We cannot forget the reason we are here this week – the moral incentive to hold perpetrators of atrocity crimes accountable crystallized for me once again when I visited northern Uganda earlier this year.

I saw first hand the plight of innocent civilians deeply scarred by conflict. I heard their cries for relief and saw their hope for justice. This is why we are here.

Looking back at 2010, I am proud to say that the ICC has made impressive progress on many fronts, as detailed in the Court's annual report, which you have received.

First of all, the ICC's **judicial activity has reached an all-time high**. We have already held 20% more court sessions in 2010 than last year. We have received 2204 applications for victims participation this year which is more than all previous years combined. With the start of the third trial, our courtrooms are now busier than ever.

The Court broke new ground in 2010 with the first investigation initiated *proprio motu* by the Prosecutor and authorised by the Pre-Trial Chamber. The first ICC arrest warrant was issued for the crime of **genocide**, two suspects **voluntarily appeared** before the ICC and one suspect was **arrested**.

For the first time the Court **formally referred matters concerning state cooperation** to the United Nations Security Council and the Assembly of States Parties, specifically the finding on Sudan's non-cooperation and the visits by Mr. Al Bashir to Chad and Kenya. I would like to thank President Wenaweser for taking prompt action on the latter issue.

The Court continued to strengthen its administration by adopting a Corporate Governance Statement on the roles and responsibilities of the organs.

Let me stress that while the Court treasures and safeguards its judicial independence, it is also fully committed to efficiency as well as administrative accountability. With the increased clarity on the Court's internal structure, we look forward to a dialogue with the Assembly on the Court-ASP relationship and the institutional framework of the wider Rome Statute system.

Finally, the historic **Review Conference** was held in Kampala and **four new countries joined** the ICC in 2010.

All these developments show that the ICC is playing an increasingly active and central role in the global struggle against impunity. This would not have been possible without the support of the States Parties, for which I am grateful.

I also wish to express my deep appreciation to the **civil society** for its tireless efforts to expand the reach and impact of the Rome Statute around the world.

Excellencies,
Ladies and Gentlemen,

We meet here this week in difficult economic times, and I assure you that the Court is doing all it can to be as efficient in its work as possible, while at the same time **safeguarding its core work – the judicial proceedings as well as the investigations of the Court.**

I would like to appeal to you with one message: **no trial of the ICC should be delayed for financial reasons**. This is a question of the **integrity of the Court** and the **fairness of the proceedings towards the accused and the victims**. That is the **cornerstone of the ICC's work**.

The judges are the ultimate guarantors of fairness and legality and I am truly proud of the Court's achievements in upholding the rights of the accused, ensuring the proceedings are expeditious and determining the scope of victim participation.

Allow me to illustrate this with some examples.

In 2008, the Pre-Trial Chamber introduced an innovative legal tool called the **in-depth analysis chart**. It directs the Prosecutor to link every piece of evidence with a specific element of the crimes and mode of liability as contained in the charges, making the review of evidence more efficient and enabling the judges to organise the presentation of evidence in an expeditious manner.

The **Trial Chambers** have diligently **safeguarded the rights of the accused** with various measures, such as rigorously enforcing the Prosecutor's disclosure obligations.

Early jurisprudence is showing that **victims** have voices distinct from those of the Prosecutor or the defence and that they are making effective contributions at hearings.

These examples illustrate how the growing judicial work of the ICC is giving rise to the noble goals to which the community of states committed itself 12 years ago in Rome.

I urge you, the States Parties, to demonstrate that commitment once again at this 9th session of the Assembly by providing to the Court the resources necessary to achieve its mandate and the objectives which you as States Parties have set.

The Registrar submitted a detailed programme budget outlining these needs for 2011. The Committee on Budget and Finance thoroughly analysed the proposed budget and identified areas which could be reduced.

After much consideration of the impact of these recommendations, the Court considers that they, together with sufficient flexibility for unforeseen expenses, can be accommodated without fundamentally affecting the Court's ability to carry out its core work.

Further cuts, however, would risk seriously affecting the Court's ability to fulfil the mandate you have given us. Let me point out that the budget recommended by the CBF would already be less than our actual expenditure forecast for this year.

I also wish to point out that it is in the **financial interest** of States Parties to ensure that trials proceed as fast as the judicial dynamics of each case allow. Every delay in proceedings prolongs the involvement of the judges, and of the counsel for defence, victims and prosecution, increasing the total cost of the case. Now, if you allow, I would like to briefly address the importance of following up on the momentum achieved at the Review Conference.

Pledges were an innovation introduced in Kampala that I would like to see become a more regular feature.

Let us not forget that the ICC is not like any other international organisation – it is part of an intricate global web of efforts against impunity. Each and every State can do something to contribute to our common objectives and pledges are ideal for setting concrete and attainable goals for that purpose.

Cooperation is paramount for the work of the ICC and the Review Conference rightly stressed its significance. Developments since Kampala have clearly demonstrated that the question of state cooperation requires constant attention.

Do not misunderstand me: most of the time and with the vast majority of States Parties, the Court enjoys excellent cooperation in its investigations and areas

such as conducting financial investigations for the purposes of legal aid and reparations or providing operational support for witness protection.

But it is the more difficult aspects of cooperation, particularly the arrest of fugitives, that grab the headlines, and we cannot ignore the fact that the ICC will only be truly effective **if all States fully carry out their legal obligations to cooperate** with the Court.

For this reason, I would suggest that the Assembly start discussing procedures to address any future instances of non-cooperation by States so it can react promptly if required. We must recall that the ICC has no methods of its own to hold a State accountable for non-cooperation – instead it relies on the ASP to take action; or the UN Security Council in situations referred to the Court by the Council.

I will now turn to the fundamental principle of **complementarity**. It underlies the entire Rome Statute system but it has been given relatively little concrete attention. States and other stakeholders have understandably focused their efforts on the establishment and institution building of the ICC.

In my view, Kampala was a watershed moment, signalling a new phase in the development of the Rome Statute system.

It is time to take efforts on complementarity to a new level in order to make serious strides towards ending impunity. This requires more coordination between the actors involved in international justice, rule of law and development aid.

Excellencies,
Ladies and gentlemen,

The Assembly of States Parties is a truly distinguished forum which brings together the sovereign States and nations that have pledged their commitment to justice and decided to take joint action against the evil that has plagued the humankind far too long.

When you make decisions in the coming week, be they technical, budgetary or policy-oriented in nature, please remember our common values enshrined in the Rome Statute. Being part of this great endeavour is a privilege as well as a tremendous responsibility, and we have to act accordingly.

Thank you for your attention and your commitment. I wish you very fruitful deliberations.