



Mrs. Fatou Bensouda
Prosecutor of the International Criminal Court

Address at the First Plenary

Fifteenth Session of the Assembly of States Parties

Checked against delivery

World Forum, The Hague, Netherlands

Wednesday, 16 November 2016 | Time: 10h00-13h00

Your Excellency, Mr President of the Assembly of States Parties,
Your Excellency, Mr UN High Commissioner for Human Rights,
Madame President of the International Criminal Court,
Mr Registrar,

Excellencies,
Distinguished Delegates,
Ladies and Gentlemen,

It is a great honour to address this 15th session of the Assembly of States Parties to the Rome Statute of the International Criminal Court.

Allow me at the outset to express my gratitude and sincere appreciation to all delegates and all participants attending this year's Assembly. Many of you have travelled long distances to be here. Permit me to take this opportunity to welcome you to The Hague and to this important Assembly.

It means a great deal to the Court, including myself, as it demonstrates your principled and genuine commitment to the fight against impunity for atrocity crimes, and the establishment of the international rule of law more generally – something to which we are firmly committed, and a goal towards which we *must continue* to strive consistently, and only in a forward trajectory.

The Court on its part remains fully committed to its mandate to help end impunity for the most serious crimes, in a complementary manner, and in so doing, contribute to their prevention. It will continue to do so with complete independence and impartiality and in strict conformity with the Rome Statute.

In order to address these crimes and deliver justice to victims across the world, it is essential that States' participation in the Rome Statute is not only maintained and reinforced, but enlarged.

The establishment of the ICC in 1998 was a historical achievement, when, following mass atrocities such as those that took place in Rwanda and former Yugoslavia, the international community gathered to say "Never Again" to impunity for the world's gravest crimes; the very crimes that reigned unchecked during decades before, to the horror of countless victims. That was the real crisis for the global community. Today, the ICC is relevant more than ever and calls of victims for the exercise of its jurisdiction are ever louder, from all four corners of the globe.

The global aspiration to end impunity for the world's most serious and destabilising crimes and to establish the international rule of law is no longer just a goal but a work in progress. It is tangible in many forms, not the least in the form of the ICC and the ever-growing complementary Rome Statute system of international criminal justice.

Against this backdrop, I must register my disappointment that three States Parties have decided to withdraw from the statute. While acceding or withdrawing from any treaty is a sovereign act that duly deserves respect, any act that may undermine the global movement towards greater accountability for atrocity crimes and a ruled-based international order in this new century is surely – when objectively viewed – regrettable.

What is required is greater dialogue and cooperation to jointly strengthen the international criminal justice system.

Despite the sensational headlines, this is not a crisis for the Rome Statute system, but a *set-back* in our joint efforts towards achieving a more peaceful and just world.

In these efforts, the role of international criminal law and the ICC as its permanent cornerstone in the fight against mass atrocities and grave breaches of human rights continues to be of crucial significance.

To demonstrate this fact, 2016 has been yet another year where my Office has been extremely busy, conducting multiple investigations and prosecutions across the ten situations where we are operating.

In addition, we have also been conducting preliminary examinations in 10 different situations across the world, including in Afghanistan, Burundi, Colombia, UK forces in Iraq, Palestine, Nigeria, Ukraine, Comoros islands and Gabon which is the most recent preliminary examination, we opened following a self-referral by that State Party bringing the total of self-referrals by African States Parties to seven.

Just two days ago, my Office published its annual report on our preliminary examination activities. As you can read in more detail, we have made good progress in this delicate work in all our situations, and on the situations relating to the Comoros referral and Afghanistan, final decisions will be taken in the near future, pending some further deliberation and analysis, which we are in the process of completing.

We have also made major achievements in the Courtroom this year, securing seven convictions in 2016 alone.

In the most recent *Bemba et al* verdict, Jean-Pierre Bemba and four other accused were found guilty of various offences against the administration of justice. Mr. Bemba, and other perpetrators were found guilty, for having committed the offences of corruptly influencing 14 defence witnesses, and presenting false evidence before the court.

This is an important precedent, and our aim was to demonstrate that such acts would *not* be tolerated in the Court's proceedings, hopefully deterring the commission of such offences, which obstruct the cause of justice in future cases.

In the main case against Mr Bemba, earlier this year, he was convicted for the crime of rape, murder and pillaging committed by his troops in the Central African Republic. Again, it is another important judicial precedent at the Court where the responsibility of commanders for the conduct of their troops was clearly established. Also from the perspective of combating sexual- and gender-based crimes, this case provided a critical contribution.

We have also obtained a final conviction in the case against Mr. Al Mahdi. The case represents the first time that the destruction of historic monuments and buildings dedicated to religion have been prosecuted as a war crime at the ICC. It was also significant for being the first case involving a guilty plea. Through this case, the Office's goal was to stress the severity of these crimes and our commitment to confront this scourge through our work.

I have also decided to focus the Office's next comprehensive policy on this issue, mapping out and strategizing how best we can investigate and prosecute these crimes and work with partners to address what we deem to be serious crimes under the Statute.

Excellencies,

Ladies and Gentlemen,

Beyond increasing the quality of our preliminary examinations, investigations and prosecutions, one of the main goals of my tenure as Prosecutor is to strengthen trust and respect for the Office by ensuring further transparency and predictability in our operations. On 15 September 2016, we promulgated a Policy Paper on Case Selection and Prioritisation.

In the discharge of its mandate, the Office of the Prosecutor exercises its discretion in determining which cases should be selected and prioritised for investigation and prosecution. The purpose of this Policy paper is however to ensure that the exercise of such discretion in all instances is guided by sound, fair and transparent principles and criteria.

Another strategic goal of the Office is to work effectively and closer with partners to close the impunity gap for Rome Statute and connected serious crimes in accordance with our respective independent mandates. I am glad to contribute to the Cooperation Plenary session this Friday to address this important topic in more detail.

I would also like to highlight the official launch of my Office's latest Policy on Children in and affected by armed conflict tonight. Suffice it to underline here that wherever the evidence permits, in line with the Policy the Office will seek to include charges for crimes directed specifically against children, such as the war crimes of child recruitment, trafficking in children and enslavement or sexual enslavement.

We also aim to promote a child-sensitive approach to all aspects of our work, taking into account the vulnerabilities of children, through the policy paper.

This evening, we will be officially launching the Policy and I will have the honour of hosting many present in this room on this occasion.

Excellencies,

Ladies and Gentlemen,

As you can see, my Office, and the Court as a whole, have managed to achieve a number of successes and accomplishments this year. However, to continue doing so, I need you, States Parties, to support the capacity of the Office of the Prosecutor in order to deliver meaningful and effective justice to victims and thus contribute to the legitimacy and credibility of this venerable institution.

In 2017, one of the four key strategic priorities for the Court is to conduct and support six active investigations. To this workload, we must add the number of 10 planned preliminary examinations and three trials. My Office has maximized the reallocation and effective use of resources both within the OTP but also in close coordination with the Registry.

Our request was carefully scrutinized by the Committee of Budget and Finance, whose recommendations to the Assembly of States Parties we have taken on-board. In short, if the States do not grant this request, it will have an impact to the planned level of activities, including investigations that my Office is able to carry in 2017.

My Office is alive and sensitive to the financial constraints faced by the States Parties. Yet, to implement the mandate I'm entrusted with, as independent

Prosecutor of the International Criminal Court, I am bound seek your continued support for our budget request. Failing to sufficiently fund our treaty mandated work will have real detrimental results on our ability to fulfil that mandate and to deliver justice to the victim of the world's most serious crimes. We have a joint obligation to ensure the Rome Statute is alive and well, and effective in practice. The provision of requisite funding for the Court is key in this regard.

Excellencies,

Ladies and Gentlemen,

Allow me to conclude by observing that notwithstanding the proliferation of conflicts across the globe and recurring incidents of atrocity crimes, when properly understood and in historical context, ours is in fact the age of rights consciousness where humanity no longer accepts that victims of gross human rights violations suffer in silence or that their perpetrators escape justice. The attainment of justice for atrocity crimes and the international rule of law is the cherished hope of all of humanity.

We must *not* and will *not* allow that the law falls silent during war and conflict; *not* under our watch, *not* in our times.

The ICC will continue to forge ahead to deliver on its important mandate to deliver justice.

It will do so because it stands for powerful ideas; because it meets vital needs for humanity's progress in the modern era; because without the ICC, we will regress into an even more turbulent world where chaos, volatility and violence take the upper hand as inevitable norms.

We must do all we can to ensure that security, stability and the protective *embrace of the law* become a reality to be relished *by all, in all corners of the world*.

We owe it to ourselves, our children and to future generations to nurture the ICC so that it carries on with its crucial work to fight against impunity and to foster the Rome Statute system of international criminal justice.

To be sure, the quest to end impunity may be long and fraught with challenges, but it is one that *must* be travelled – collectively.

Thank you, Mr. President, Excellencies, Ladies and Gentlemen, for your attention. |