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*New power balances: actors for the future and challenges ahead*

*FIDH International Forum in the context of its 38<sup>th</sup> Congress: “Political Transition from a Human Rights Perspective: Experiences and Challenges”.*

Keynote address

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Excellencies,  
Your honours,  
Ladies and Gentlemen,

Let me begin by thanking the *Fédération Internationale des Ligues des Droits de l'Homme* for inviting me to address this plenary session of the 38<sup>th</sup> International Congress, the key theme of which is “New power balances: actors for the future and challenges ahead”. I thank you all for being here today and I look forward to exchanging views with you on the new actor in international relations which I represent: the International Criminal Court, and more broadly international criminal justice.

Today, the International Criminal Court is at the centre of international criminal justice, the main purpose of which is to ensure accountability for serious crimes that shock the conscience of humanity. Compared to its predecessors, the ad hoc tribunals for former Yugoslavia and Rwanda, the ICC is a young institution. It is still striving to find its rightful place in the complex world of international real politics.

In doing so, it is chattering hitherto uncharted territories; it is forcing politicians, mediators, warlords, to realize that business as usual can no longer be continued. Gone are the days when those who commit mass murders, rapes, and plunder, could be cleansed of their atrocities through a mere hand shake and a scribble of their initials on a piece of paper which purports to bind them to conditions that they have no intention of ever observing.

The stage was set in Rome in 1998, when the international community overwhelmingly decided to establish an innovative and unprecedented permanent judicial institution, to hold individuals accountable for the crimes they committed, irrespective of the individual status. The agreement in Rome codified principles established in Nuremberg and set the stage for their enforcement.

It is worth recalling that the development of international criminal justice, of which the ICC is only a part, corresponds to a need. Over the years, the most serious crimes of concern to the

international community, genocide, crimes against humanity and war crimes were committed and remained unpunished. National systems failed to adequately deal with such crimes and the ICC, which is the only permanent international criminal court, was intended to contribute to ending impunity and deter what its Preamble describes as “the unimaginable atrocities that deeply shock the conscience of humanity”, and which threaten the peace, security and well-being of the world. The punishment of individuals responsible for these crimes brings justice to victims, deters the future commission of such crimes and develops a culture of accountability.

Justice is thus seen as necessary to achieve regional and international peace. It is an intrinsic part to the efforts deployed by the international community to address situations of massive crimes, and a key component of any meaningful transition from conflict to lasting peace. Above all, justice creates a global environment in which perpetrators of the gravest crimes find no safe haven and are held to account. Justice ensures that no one, irrespective of status, can use violence, rapes and killings to gain power or to stay in power, and that anyone who does so will be investigated and prosecuted.

Based on the experience of centuries of conflicts on all continents of the world, and also thanks to the road paved by the ad hoc tribunals in the 1990s, accountability and the rule of law are now recognized as fundamental pre-conditions for the framework to protect individuals and nations from massive atrocities, to promote peace and international security and to manage conflicts.

However, it was not until 2002 when the required 60 ratifications were reached that the Rome Statute system was put in motion. Despite the fanfare that accompanied the entry into force of the Rome Statute in 2002, skeptics continued to doubt the viability of the experiment that the international community had embarked upon. Predictions were that the ICC would remain a white elephant that would never show any returns for the huge investment that the international community had put, and would continue to put into the new institution..

To the contrary and I must say, happily, ten years on, skeptics predictions have been proved wrong, forcing them to adopt new tactics and new forms of attack. One important factor that many critiques forget is that when my predecessor took office in 2003, he had to build a new Office from nothing- no staff, no policies, no guidelines, no investigative or prosecutorial infrastructure, and very little experience from which to borrow/learn. Above all, even though very little was known about the Office, its mere existence aroused fears which contributed to lack of support for its work, even amongst the Court's constituencies. Support is critical for all stages of the Court's work: without the necessary support and cooperation of States and all other actors, the work of the Office and that of the Court in general can be severely paralysed.

Yet the Office was not only expected, but was also pressured to show results. Thankfully, the Office refused to bow to pressure and focused on creating a solid legal foundation, based on its statutory framework as it prepared to embark on its mandate of independent, impartial and fair investigations and prosecutions ensuring justice to victims. At the same time, the Office also embarked on building support for its work, while also monitoring the international political landscape.

Fortunately, all that is now in the past. I have inherited a well-functioning Office, with clear policies and strategies, with over 300 dedicated staff from some 70 nationalities. My challenge is to consolidate what has been achieved, to build on from it, and to answer victims' calls for justice. That is the promise made in Rome and that is the promise we cannot fail to fulfil. Each one of us, making small but important contribution can make a difference: the Kony 2012 campaign exemplifies how human ingenuity has no bounds if we attach importance to an issue.

The Court, by virtue of its s mandate and operations, has introduced a new paradigm in international relations: utilizing the same standard of law as a global tool to promote peace and international security and put an end to impunity. The Rome Statute's underlying norms have now crystalized and have become part of the arsenal of mechanisms available to the international community in times of crises and conflict.

The Rome system is protecting the rights of more than 2.3 billion persons who live in the territories of 122 States Parties. Even beyond, there are many other citizens from all over the world requesting the intervention of the Court. Due to statutory limitations we cannot help them all, but it shows that the awareness of and the confidence in the Court's abilities and activities is ever growing.

Ladies and Gentlemen,

Developments in the past ten years of the Court's functioning demonstrate that this institution has become a key actor in international relations; an actor that is needed to ensure accountability and intervene whenever massive crimes are alleged to have occurred; an actor that is now fully concretely functional, currently dealing with 18 cases in 8 situations; and an actor that is being called upon, again and again, to fulfil the promise made to victims in Rome, that there should be an end to impunity and that future crimes should be prevented.

But this does not come without challenges.

It is a serious indictment on the international community and on the credibility of the Rome Statute System that 12 of the ICC indictees remain at large. This only serves to embolden indictees and other would-be perpetrators that violators can not only escape justice, but can continue committing crimes, comfortable in the knowledge that the international community has no strategies for bringing them to justice.

We cannot wait and hope that another indictee will walk into an Embassy and request to be taken to the ICC. Alleged violators must be arrested and brought to face justice. This requires development of appropriate strategies, taking into account particular circumstances of the whereabouts of each indictee.

Demands for justice and accountability are reverberating around the world, as exemplified by the Arab citizens open challenges to autocracy, and their calls for an end to impunity for heinous human rights crimes committed by their leaders. In pursuit of justice and following

the legal framework provided by the Statute, the Court opened investigations in the Democratic Republic of Congo, Uganda, Central African Republic, Darfur, Kenya, Libya, Côte d'Ivoire and more recently, Mali. Individuals alleged to be responsible for crimes in these countries are being investigated and prosecuted with a view to ensuring accountability for their alleged crimes.

In all these situations, our focus has been on those who bear the greatest responsibility for the crimes; these are people at the highest echelons of political or military structures who develop policies, give instructions, finance and generally oversee the carrying out of the developed common plans and policies. By targeting them, we hope not only to hold them accountable, but to deter others from violating human rights and committing crimes.

Ladies and Gentlemen,

Let me conclude by stressing that it is important for the Court to continue to build and deliver high-quality trials. However, the true success of the Court, its preventive impact, will depend on the support of other actors. In particular, States support is crucial for the work of the Court – from investigations to enforcement of decisions and sentences. Civil society, political leaders, mediators, armies, donors and development aid workers all have a role to play.

To be able to hold violators accountable, the Court should not be isolated; it should be seen as part of national judicial systems whose function is to deter crimes by punishing those responsible for such crimes.

If perpetrators and potential perpetrators of war crimes, crimes against humanity and genocide are to be deterred from committing more crimes, a strong and consistent message is required from all quarters – whether from the Court, international and regional organizations; States Parties to the Rome Statute, and others – that peace and justice can work together and that the era of impunity is over.

Looking ahead to my tenure as Prosecutor of the ICC, I stand ready to work with all actors concerned in answering the call of the millions of victims around the world, in need of our help.

I thank you for your attention.