



**Cour
Pénale
Internationale**
**International
Criminal
Court**

Le Président
The President

Judge Sang-Hyun Song
President of the International Criminal Court

*Remarks at High-level panel discussion on the universality of the Rome Statute in the
Pacific region*

Workshop for the Universality of the Rome Statute of the International
Criminal Court and the Kampala Amendments on the Crime of Aggression
in the Pacific Region

Auckland, New Zealand

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Excellencies,
Ladies and gentlemen,

It is a great pleasure to be here today. I would like to extend a very warm greeting to everyone on behalf of the International Criminal Court.

I am very pleased to be on the same panel with my dear friend, Tuiloma Neroni Slade. Together we were part of the first group of 18 judges elected to the bench of the International Criminal Court in 2003.

Please allow me to thank the Permanent Mission of Liechtenstein to the United Nations, the New Zealand Ministry of Foreign Affairs and Trade and the Global Institute for the Prevention of Aggression for hosting this timely workshop. This is an excellent example of the kind of action that can be taken by States Parties and the civil society to advance the Rome Statute system and raise awareness about the International Criminal Court.

On a personal note, I am very happy to be back in New Zealand. Do you know how this country is known in my country, South Korea? We call New Zealand the "*last remaining paradise on earth*"! Indeed this is an oasis of calm compared to the urban hubbub of Seoul, a city which never sleeps.

I have a longstanding personal connection with New Zealand. As many of you may know, I was a Professor of Law for more than 30 years. I taught mainly at Seoul National University, but I also spent time at other Law Schools, including several semesters as a Visiting Professor at the Victoria University of Wellington, more than 20 years ago.

In 2000, I became a member of the Korea – New Zealand business council, and in that capacity I toured this beautiful country, raising awareness about business opportunities for New Zealand investors in Korea and the relevant Korean laws they should be aware of.

I suppose I have always been happy to accept the task of spreading the word about something I sincerely believe in. And this is also why I am here today – to talk about the Rome Statute and the International Criminal Court, and to encourage more States in this region to join the international justice movement.

Indeed the topic of this panel is very close to my heart. When I was elected President of the ICC in March 2009, I made it one of my main priorities to work on increasing

the membership of the Rome Statute system, especially in the Asia-Pacific region, which is severely underrepresented in the ICC.

Let me illustrate just how underrepresented our region is. Just 35% of States in the Asia-Pacific Group of States are party to the Rome Statute. Only one third! For the rest of the world, the corresponding figure is 74% - more than double.

For me, this is extremely disappointing. Why would the Rome Statute be any less relevant for us than it is for the rest of the world?

Is our region immune to armed conflict and international crimes?
- I do not think so.

Can we turn a blind eye while the rest of humankind engages in joint efforts to end mass atrocities and the needless suffering of millions of people? - Certainly not.

The goals and values of the ICC are universal: peace, security and the well-being of the world. These words are enshrined in the Preamble of the Rome Statute.

During five years as President of the ICC, I have travelled to numerous non-States parties and engaged in discussions with their officials about the ICC's mandate and activities.

While respecting every State's sovereign right to decide on accession to a multilateral treaty, we must repeatedly stress the benefits of joining the Rome Statute. There are many reasons to do so - please allow me share with you some of them:

Firstly, ratification of the Rome Statute is a powerful foreign policy statement. It shows that you recognise the interconnected nature of the modern world. International cooperation is about give and take. If you expect others to live up to international standards for instance on climate change, then you have to show that you are willing to do the same on other pressing issues of international concern, such as impunity for atrocity crimes.

By joining the ICC, you tell the world: "we sympathise with the suffering of those who have fallen victim to genocide, crimes against humanity and war crimes, and we want to make our contribution to ensuring that such crimes are no longer tolerated". Membership in the ICC will not require huge efforts from you, but it will be tremendously appreciated by the international community.

The second reason to join the Rome Statute would be the legal protection that it gives to the States Parties and their population. Anyone who would attempt to commit genocide, crimes against humanity or war crimes on the territory of a State Party would risk prosecution by the ICC and arrest in any of the 122 States Parties. In other words, the Rome Statute creates a protective shield of deterrence against the most serious atrocities such as large-scale, systematic killings, deportation, or the persecution of ethnic groups.

Thirdly, joining the Rome Statute system opens career opportunities for nationals of States parties who could be elected for the highest level positions at the ICC such as Judge, Prosecutor or Deputy Prosecutor. ICC membership would also give States Party nationals preferential treatment in recruitment for ICC positions over nationals of states not party to the Statute. In my opinion, young and talented lawyers and other professionals from the Asia-Pacific should be given the same opportunity for global engagement as all others.

Fourthly, joining the Rome Statute would allow a state to contribute to shaping the future of international criminal justice by having equal rights to participate in all negotiations and decisions of the Assembly of States Parties. Let me stress that each State Party has an equal vote in the Assembly, and by acting collectively, one sub-region can make a big difference.

The universality of the Rome Statute would reinforce the ICC's legitimacy as a global criminal court and it would increase its effectiveness in addressing impunity for the perpetrators of the most serious crimes.

As you know, the ICC does not have its own enforcement mechanisms; instead it relies on the cooperation of States to implement its decisions. The more States join the treaty, the more effective the global system of international criminal justice will be in preventing impunity for mass murder, persecution, rape as a weapon of war, the use of child soldiers and so on – and ultimately deterring these crimes altogether.

Excellencies,

Ladies and gentlemen,

The adoption of the Rome Statute of the International Criminal Court in 1998 is one of the greatest achievements of the international community in the last century. It is a historic treaty which reflects fundamental human aspirations for peace, justice and fundamental human rights. I sincerely hope to see more countries from the Asia-

Pacific become part of the broad community of States that are standing together in pursuit of these goals.

There are encouraging signs of increasing engagement from this region. In 2012, the Communique of the Pacific Forum Summit called upon Forum members not yet party to the Rome Statute to accede to the treaty.

In 2011, during the Universal Periodic Review at the UN Human Rights Council, the Solomon Islands accepted the recommendation to accede to the Rome Statute. Last year, Tonga and Tuvalu did so as well, and I understand that the Cabinet of Tuvalu has indeed given the green light for joining the ICC.

Two years ago at a Pacific ICC roundtable in Sydney, I heard cautiously optimistic comments from Papua New Guinea and Micronesia.

In the past, some countries in the region may have been wary about joining the ICC due to the attitude of the United States. But I am happy to say that there is no more reason to hesitate for that reason. The approach of the United States toward the ICC has changed 180 degrees since the days of the first Bush administration. Let me quote a statement by U.S. Ambassador Stephen Rapp that is publicly available on the website of the US State Department: *"...the United States does not object to any country joining the ICC. In particular, this is because in this administration, in the Obama Administration, we are working very closely with the ICC"*. He added: *"we think that what the ICC is doing in each of its cases is very important, and that we want to partner with the ICC to ensure that it can bring justice to those situations where there is no possibility of justice elsewhere"*.

Some of the Pacific States may also be interested in the position of China vis-à-vis the ICC. At the latest session of the Assembly of States Parties, the Chinese delegate said in reference to the ICC that *"China attaches great importance to the Court's role in maintaining international peace, security and justice, punishing international crimes and furthering international law"*. As you can see, the big powers of the world, while they have not joined the Rome Statute thus far, they have fully accepted the ICC's role on the international scene, and they are supportive of its contributions.

In South-East Asia, even fewer States are members of the ICC than in the Pacific, and I have worked particularly hard on raising awareness about the ICC there. Recently I travelled to Indonesia, which made the commitment to join the ICC several years ago, and Malaysia, where the cabinet took a decision on accession to the Rome Statute in 2011.

But all these commitments have to be turned into concrete results. Words must be followed by actions.

The last country in the Asia-Pacific to join the Rome Statute was Vanuatu, and that was more than two years ago. We need more members from this particular region.

Whatever obstacles remain for the Asia-Pacific countries to join the ICC, those obstacles can be overcome. Technical assistance and model legislation is available, and the many other States Parties or regional organisations are prepared to help with the process.

If any of you think that the ICC is not relevant for small states, or that small states are not relevant for the ICC, I would beg to differ. In fact, it is precisely the small states that may have particular benefit from the collective legal protection of the Rome Statute community against threats of serious crimes under international law, regardless of whether such threats are external or internal. And small states can truly punch above their weight in the ICC setting. Just think of Liechtenstein or Samoa – they are hardly global superpowers, but they have both played an immensely important role in the Assembly of States Parties to the Rome Statute.

In the end, joining the ICC is a question of willingness and determination. Let us work together to ensure that the Asia-Pacific takes the lead in global responsibility for the good of humanity.

Thank you for your attention.