



Cour
Pénale
Internationale

International
Criminal
Court

Le Président

The President

Judge Chile Eboe-Osuji
President
International Criminal Court

*Remarks at Solemn Hearing in Commemoration of the 20th Anniversary of the
Adoption of the Rome Statute of the International Criminal Court*

17 July 2018
The Hague, The Netherlands

OPENING REMARKS

Your Excellencies:

- President of the Federal Republic of Nigeria
- President of the Assembly of States Parties,
- Judges of this Court and of other Courts here present
- Madame Prosecutor
- Mr Registrar
- Honourable speakers and members of national legislatures
- Honourable ministers
- Mr Under-Secretary-General for Legal Affairs of the United Nations
- Honourable Governors of political subdivisions
- Members of the diplomatic corps
- the Chairperson of the Board of Directors of the Trust Fund for Victims, and

Ladies and gentlemen:

Welcome. And, to our guests, I welcome you to the ICC – your court. I do so, on behalf of all the functionaries and staff of the Court.

20 years ago today – on 17 July 1998 – members of the diplomatic community and of civil society and jurists from around the globe gathered in Rome to deliver a vision that was both tall and large to be seen around the world. It was a vision of a world in which atrocities that shock the conscience of humanity would no longer be committed against victims, with an assurance of impunity.

The vision, then, was to establish this international criminal court – as a permanent institution capable of looming large in the consciousness of those inclined to commit such crimes, and beyond that to compel them to answer questions about their conducts, regardless of station.

That we are assembled here today in the permanent premises of this permanent Court bears the loudest testament to the very realisation of an international structure where such questions of accountability may indeed be asked – with real rigour and vigour.

*

Yet for many reasons, however, we are not entitled to celebrate achievement of vision. And I do stress the point. But, time permits me now to touch on just two reasons why – very briefly.

First, as a practical matter, we are not really free to take credit for an achievement that was not truly our own. For, we are not, generally speaking, the generation of diplomats, civil society and jurists that worked so hard - for so long - to realise the dream of adoption of the Rome Statute in July 1998. Those visionaries of 1998 have played their monumental part have largely and left the stage. And, they have left to our own generation this most important legacy that we call the Rome Statute. Today, we honour them deeply and fully.

BUT, in 20 years, the reflection will turn on questions about what we did - in our own turn - with that mantle that they handed to us. Did we drop it? Did we leave it unimproved, due to indifference and apathy? Or did we make it better? But we cannot afford to wait for the next generation to answer those questions for us in 20 years' time. Our reflections as part of this 20th anniversary must concentrate on those questions.

*

That brings me to the second of the many reasons that stand against any celebration today. And that is to consider that the very vices which this Court was created to address persist in many parts of our world – as we speak. And, many may find it alarming that some statistics may even suggest the prospect of deterioration, judging by the comparative global incidence of armed conflicts. For instance, statistics analysed and reported by the Heidelberg Institute for International Conflict Research suggest that the number of high-intensity conflicts has more than tripled in the last 20 years, since 1998.

Such statistics must truly trouble us: given the notorious phenomenon that armed conflicts are the most common vectors of atrocity crimes – typically those that come in the manner of ethnocentric mass violence, sexual violence and war crimes.

Yet, while those statistics would inhibit the celebration of achievement of vision; they should also not induce in us a depressing sense of fatalism, in our struggle against impunity. Quite the contrary, let them serve as an urgent clarion call to the following reality: that humanity's need of the Rome Statute and the ICC is as critical today as was the case 20 years ago – indeed more so.

That clarion call, thus, urges us to the necessity to hitch our resolve to the sticking point, and double down our courage and tenacity to battle the forces of impunity - regardless of their origins.

The necessary battle front requires – in us - a determination to give this Court the political, diplomatic, functional and material support it needs, in order to do its work. It urges us to increase our drive for universal ratification of the Rome Statute, in order to cover the global terrain of jurisdiction for the Court. And it encourages us to accept that as a human institution – like every other human institution, including national courts of even many hundreds of years – there will always be an ongoing need to reform the Court and its processes, in order to improve its ability to achieve its mandate with greater purpose and efficiency: yet, leaving undiluted the essential properties that make this Court a vital instrument of accountability.

*

And, just as importantly, the temptations of apathy and indifference towards the Court must be resisted at all costs. For, they may be unwitting allies of impunity – implicated as such in Edmund Burke's famous dictum, which holds that 'all that is necessary for evil to prevail is for good men [and women, too] to do nothing.'

We should also be alive to the possibility that erosion of the Court's purpose may come in the guise of the illusion of supposed reasonable alternatives that take the approach of return to ad hocism – even when it is possible to use the ICC for the administration of justice in the particular situation. But, that illusion may be only that – a veritable siren song that lulls the mind of good faith away from the urgent need to support and shore up the hard-won permanent Court into which the world

has invested so much capital - political, diplomatic, civic, let alone the obvious one, financial.

Indeed, sliding back to ad hoc solutions is a development that detracts from the declarations of many delegates in Rome 20 years ago: to the effect that the ICC was being established as a better method, in comparison to the ad hoc experiments that were the only solutions possible in their own times (from Nuremberg, to the former Yugoslavia, to Rwanda and to Sierra Leone) - given the total absence of a permanent international criminal court in place to administer international criminal justice at the time. 20 years later, it is not ideal to return to that solution, without first exhausting – truly – the possibility of employing the permanent international court to, specifically, administer international criminal justice.

*

I feel confident that those of us who now enjoy the privilege of serving the cause of humanity through the instrumentality of this Court are fully committed to the project outlined above – be it as leaders of national governments, as ministers, as members of the diplomatic corps, as members of civil society, and as jurists working at the Court or in academia.

*

With those welcoming remarks, we kick off in earnest our various reflections on what the Rome Statute and the ICC means to humanity. We hear next, the Keynote address by our guest of honour – His Excellency President Muhammadu Buhari, President of the Federal Republic of Nigeria. Following him, we shall hear reflections from the President of the Assembly of States Parties, and, then, the Prosecutor of the Court. After this opening segment, we shall reconvene in the high level segment where we shall continue to hear the reflections of other delegates.

REACTION TO THE KEYNOTE ADDRESS OF PRESIDENT BUHARI

Your Excellency, on behalf of my colleagues here on the Bench and the whole Court and its well-wishers, we are immensely honoured and delighted for your attendance of this event as our guest of honour. In your attendance and keynote speech, you have demonstrated actionable leadership in the manner of support that the Court needs in these interesting times about which you have spoken in your speech. I thank you very much.

CLOSING REMARKS

Before we conclude the opening session, it is fitting for us to recall that on the eve of the adoption of the Rome Statute in 1998, President Nelson Mandela reminded the world that there had been enough horrors that human beings had visited unto their fellows. He observed that many of those horrors could have been avoided, or at least minimised, if there had been an effective, functioning International Criminal Court. No doubt, the brand of horrors of which he spoke would readily include atrocities like the Holocaust against Jews, the genocide against Tutsis in Rwanda, ethnic cleansing in the former Yugoslavia, and, indeed, apartheid as a crime against humanity committed in South Africa. And we must not forget the incidence of sexual violence that is a notorious feature of armed conflicts.

We now have in place that ICC that Mandela had wished for.

I invite us all to use this occasion of reflections to return to the basic vision of what the world sought to achieve in building this normative and physical edifice of accountability. Let us ensure that allegations of the most serious crimes are met with a robust, fair and impartial judicial response – at the international level as a last resort, where national systems prove unable or unwilling to give victims their day in court.

Let us make sure that we do not let down those who worked so hard to make the Statute of an International Criminal Court a reality.

Though the Rome Statute was adopted 20 years ago, the dream that culminated in that event started well over 50 years before. In our own turn, then, we may even allow ourselves to dream to improve the edifice, in other ways that make the world a better place for humanity.

In this connection, we may point our mind to the desire expressed by President Buhari for expansion of the Rome Statute to also cover other crimes, notably, serious cases of corruption. May I inform that during a recent visit to Ecuador, His Excellency President Lenin Moreno and his senior officials expressed the same desire that the ICC should also prosecute cases of corruption executed at a scale the effects of which are capable of approximating the human costs of violent crimes against humanity. I merely report these important views to you - with an open mind. The decision to amend the Rome Statute in order to allow that manner of jurisdiction belongs to States. My colleagues and I are ready and willing to exercise any jurisdiction which the States confer on us.

I now close with the fervent urge for us all to ensure, together, that the spirit of Rome lives on - in all the ways that bring accountability to crimes that shock the conscience of humanity in their atrocious effects on human life.

I thank you all. This session is now adjourned. I thank you all very much. The session is now adjourned.