

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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Excellencies,  
Ladies and Gentlemen,

First, I would like to congratulate the World Bank for convening this impressive and timely event, and I thank the organisers for inviting me to address such a distinguished audience.

As the President of the International Criminal Court, I find it a very exciting opportunity to speak at the opening of the Law, Justice and Development Week, especially as it is themed “Legal Innovation and Empowerment for Development”. Indeed, the ICC itself has been described as being perhaps the most innovative development in international law since the creation of the United Nations.<sup>1</sup>

Today, I would like to speak about the fundamental connection between justice, peace and development. I am going to argue that the emerging system of international criminal justice, centred on the Rome Statute of the International Criminal Court, is an essential building block for the stability, security and prosperity of the world. I will also call for the creation of more synergies between the spheres of international justice and development.

Excellencies,  
Ladies and Gentlemen,

The 2011 World Development Report is a landmark document in many ways, not least for stressing the devastating effect that conflicts and large-scale violence have on development. As the Report states, “the average cost of civil war is equivalent to more than 30 years of GDP growth for a medium-size developing economy [and] [t]rade levels after major episodes of violence take 20 years to recover”.<sup>2</sup>

As dismal as these findings are, they do not surprise me. Wars and mass atrocities tear communities apart, inflicting terrible physical and mental suffering, destroying moral norms, and wrecking public institutions and infrastructure.

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<sup>1</sup> W. Schabas, *An Introduction to the International Criminal Court*, Cambridge University Press, 2001, p. 20.

<sup>2</sup> World Development Report 2011, Overview (“WDR Overview”), [http://wdr2011.worldbank.org/sites/default/files/WDR2011\\_Overview.pdf](http://wdr2011.worldbank.org/sites/default/files/WDR2011_Overview.pdf), pp. 5-6.

I speak from personal experience. I was nine years old when war broke out in my home country, Korea. For three months, my family was hiding in a hot and humid underground bunker as the battle for Seoul city raged on. Every day, I had to emerge from the bunker and walk for some 16 kilometers to fetch food. During these trips, I passed hundreds of dead bodies lying on the streets. To this day, I can precisely remember the horrible stench of the decomposing corpses in those hot summer months.

Fortunately, Korea did eventually recover from the war, and managed to transform over time from an extremely poor country into a thriving economy and a full democracy with a strong, independent judiciary.

However, not all of us are so fortunate. More than a billion people on the planet continue to live in areas of conflict, large-scale violence or fragility.<sup>3</sup>

In my capacity as President of the International Criminal Court, I have met with former child soldiers and others affected by war crimes and crimes against humanity. It is heartbreaking to sense the trauma that the victims carry with them, and the magnitude of the challenges their communities face in their efforts to regain stability and normality.

Excellencies,

Ladies and Gentlemen,

The world has to find a way to prevent the enormous suffering caused by mass atrocities and other forms of large-scale violence. It must be possible to create conditions necessary for all of the world's citizens to prosper in peace.

Indeed, I find peace to be the most fundamental precondition of stability and development. But there is no sustainable peace without justice. In the words of the UN Secretary-General, "[p]eace and justice go hand in hand".<sup>4</sup>

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<sup>3</sup> WDR Overview, p. 11.

<sup>4</sup> 'Secretary-General deeply concerned about Sudan's reported lack of cooperation with International Criminal Court', United Nations, 5 June 2008, <http://www.un.org/News/Press/docs/2008/sgsm11617.doc.htm>.

Grave international crimes such as genocide, crimes against humanity and war crimes present one of the greatest threats to the peace, security and well-being of the world. This recognition is reflected in the preamble of the Rome Statute of the International Criminal Court, which was adopted in 1998 by the majority of the world's nations.

This historic achievement was the culmination of decades of effort by lawyers, diplomats, civil society groups, and individual citizens worldwide. States from all regions of the world decided that they must take joint action, relying on the force of international law, to make sure that the gravest crimes known to humankind will not go unnoticed or unpunished, and, ultimately, to prevent future crimes.

The ICC's Statute entered into force in July 2002. In the last nine years, the ICC has turned from a court on paper into a leading actor in the area of the enforcement of international justice. The Security Council's unanimous referral of the Libya situation to the ICC in February this year was one of the strongest indicators of the growing international confidence in the ICC's role. 119 States, more than 60% of the world's sovereign nations, have ratified the Rome Statute, and the number keeps growing.

The ICC is currently dealing with international crimes allegedly committed in seven countries, and the Prosecutor is following developments in many more situations across the world. The ICC's first judgment, stemming from a case concerning the use of child soldiers in the Democratic Republic of the Congo, is expected shortly.

Excellencies,

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Large-scale violence does not only impact on the direct victims, but the surrounding societies as well. Studies have found that non-victims in the context

of mass violations often have the sense that after what happened to the victims, no one can be safe, no one can really know what to expect.<sup>5</sup>

Furthermore, the fear and the deep sense of injustice caused by massive human rights violations may lead victims to exclude themselves from public life and refrain from engagement with public institutions.<sup>6</sup> Clearly, these are major obstacles to normalisation and development.

Justice, whether delivered by domestic or international institutions, is a necessary tool for the stabilisation of peace. Where impunity is allowed to reign, it leaves a desire for vengeance among populations who have been victims of massive crimes, and provides fertile ground for the recurrence of conflicts.

Clearly it is no coincidence that the World Development Report recognizes transitional justice as one of the core tools to forestall cycles of violence.<sup>7</sup> Any efforts to help a society regain health, wealth and capacity to profit from its own resources must include accountability for the past atrocities and strengthening of the rule of law. Indeed, research suggests that countries that have held former leaders accountable for their crimes have in most cases come away stronger.<sup>8</sup>

Excellencies,

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One of the most significant features of the ICC and the wider Rome Statute system is the contribution it makes to the prevention of mass violence.

No one is immune from accountability, as the ICC's arrest warrants for sitting heads of state demonstrate. The likelihood of punishment has increased for dictators, and the new generation of political and military leaders may be more

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<sup>5</sup> P. de Greiff, 'Articulating the Links Between Transitional Justice and Development: Justice and Social Integration', in P. de Greiff and R. Duthie, (eds.), *Transitional Justice And Development: Making Connections*, Social Science Research Council, 2009, p. 42-43.

<sup>6</sup> Cf. *ibid.*

<sup>7</sup> WDR Overview, pp. 17-18.

<sup>8</sup> K. Sikkink, 'Making Tyrants Do Time', *New York Times*, 15 September 2011  
<http://www.nytimes.com/2011/09/16/opinion/making-tyrants-do-time.html> .

cautious before deciding to murder or torture their political opponents or fellow citizens, especially if those citizens are aware of their rights.

Where atrocities have already taken place, the acknowledgment of the suffering of the victims and the individualisation of guilt for the crimes helps to stabilise peace. But attributing guilt to individual perpetrators is not sufficient to foster the chances of a victimised community to break out of the vicious cycle of conflict and poverty.

To enable a more comprehensive process of justice, the founders of the ICC decided to introduce two very innovative approaches for the empowerment of victims.

First of all, the ICC is the first international judicial body to allow participation of victims in their own right, and not just as witnesses. People who were victimised by powerful criminals have now become actors in international proceedings designed to prosecute those crimes. In this regard, victims' participation in the criminal as well as reparations proceedings at the ICC is a milestone towards their empowerment.

Along with this, the Rome Statute pays special attention to the needs of women and children, and the ICC represents a step away from the traditional male-dominated world also by being the first international court with a majority of female judges on its bench.

The second innovative feature of the Rome Statute is the creation of a Trust Fund for Victims, which is without precedent in international criminal justice. The Fund is nourished by voluntary contributions from governments as well as from private sources. Recognizing both the rights and the needs of victims and their families, the Fund empowers victims to become key stakeholders in the pursuit of transitional justice.

The past four years have seen the Trust Fund for Victims mature into a solid institution. Currently, over 40,000 direct beneficiaries receive assistance provided by the Fund and its local and international partners in Uganda and the DR Congo.

In 2012, the Fund will start activities in the Central African Republic. Prospects for engagement in other Court situations - Kenya, Libya and Cote d'Ivoire – are on the horizon. The Trust Fund for Victims also has an important role to play as an implementing agency for judicial reparations orders made by the ICC – the first of which we may see next year.

In a sense, the Fund acts as a conduit between the principle of individual criminal responsibility for the most serious crimes and the commitment of the international community to address the multi-dimensional challenges facing societies in post-conflict situations. In responding to the particular needs of victimized individuals and communities in their quest for dignity, hope and sustainable livelihoods, the Trust Fund for Victims complements other humanitarian or developmental initiatives in situation countries. As such, the Trust Fund is becoming an increasingly visible presence on the nexus between justice and development.

Excellencies,

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There is no doubt that the ICC represents a historic step forward in the global efforts to suppress atrocity crimes. But this is only a partial victory. An enormous amount of work remains to be done, and your help is needed to do it.

The task that I am referring to is the empowerment of national jurisdictions to prosecute and prevent war crimes, crimes against humanity and genocide. This is one of the most burning challenges for the further development of the emerging system of international justice.

Under the principle of complementarity enshrined in the Rome Statute, the national judiciary of each state retains the primary duty to investigate and prosecute grave violations of international humanitarian law. The ICC is a safety net that ensures accountability when the national jurisdictions fail in their task.

In light of this, the domestic justice systems of States should be so well equipped to deal with ICC crimes that they can serve as the main deterrent worldwide and

likewise provide justice for past atrocities to enable a society to move on after large-scale violence.

In a national setting, this requires a good legal framework and the necessary capacity in terms of skills and resources for investigations, prosecutions and trials. This is no simple task to achieve, particularly not in a post-conflict situation.

As the recent Rule of Law report of the UN Secretary-General states, “[t]here is currently...no systematic way to foster the political will necessary for States to domesticate the Rome Statute and bring those requiring assistance together with international actors willing to fund...or provide such assistance”<sup>9</sup>.

To start addressing this gap, a landmark event was held last year at the Greentree Estate in New York to initiate discussions among relevant actors from the international criminal justice, development and legal communities. The process will continue next month, again at Greentree, with more detailed talks aimed at creating an action plan for the capacity-building of national jurisdictions to tackle atrocity crimes.

Again, I stress that the role of the development agencies is crucial in this respect. Addressing the legacy of mass violence is currently not topping the agenda of development programmes. The World Development Report states, for instance, that “[i]t is much harder for countries to get international assistance to support development of their police forces and judiciaries than their militaries”<sup>10</sup>.

Excellencies,

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The development community and the international justice community have many goals in common. We share concerns about the impact of violence on human populations, and we share a desire to see nations affected by violence move into a future where their citizens can thrive in safety.

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<sup>9</sup> ‘Strengthening and coordinating United Nations rule of law activities’, Report of the Secretary-General, A/66/133, 8 August 2011, para. 47.

<sup>10</sup> WDR Overview, p. 23.



Forging new partnerships between our respective spheres will take us one step closer to our shared objectives. Lasting peace and prosperity in the post-conflict societies can only be achieved if development challenges and justice enforcement are addressed in a coordinated manner, and I salute the World Development Report for pointing us in that direction.<sup>11</sup>

In particular, I appeal to those in charge of designing development programmes to remain conscious of the role that justice for mass atrocities plays in ensuring sustainable development and security in post-conflict societies.

The potential for synergy is significant. Those responsible for war crimes and crimes against humanity are often part of wider networks involved in corruption and organized crime. Helping societies dismantle these criminal structures represents a major step for rooting a culture of the rule of law. In this way, capacity building for addressing Rome Statute crimes supports the more general justice reforms and vice versa.

As you continue your discussions this week on Legal Innovation and Empowerment for Development, I would like you to think of international criminal justice as a mechanism of fundamental importance for the empowerment and peaceful development of societies worldwide. Conversely, equitable development is crucial for the attainment of sustainable peace and the rule of law.

Clearly our fields of work are interconnected, so let us work together to secure a better future for humankind.

Thank you.

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<sup>11</sup> WDR Overview p. 28: “A key lesson of successful violence prevention and recovery is that security, justice, and economic stresses are linked: approaches that try to solve them through military-only, justice-only, or development-only solutions will falter.”