



**Judge Silvia Fernández de Gurmendi  
President of the International Criminal Court**

Opening remarks at Ceremony for Opening of Judicial Year 2018

*Check against delivery*

*The Hague  
18 January 2018*

Your Excellency, Mr President of Trinidad and Tobago,  
Your Excellency, Mr President of the Assembly of States Parties,  
Esteemed judges representing national, regional and international jurisdictions,  
Madam Prosecutor and Mr Deputy Prosecutor,  
Mr Registrar,  
Mr President of the ICC Bar Association,  
Your Excellency, Mr Minister of Justice of Libya,  
Madam Secretary-General of the Ministry of Foreign Affairs, representing the Host  
State,  
Excellencies, distinguished guests,

I would like to wish everyone present a very warm welcome to the ceremony for the opening of the judicial year 2018.

In holding such a ceremony for the first time at the International Criminal Court, we have chosen to follow a well-established tradition of many courts.

By doing so, we underline the judicial nature of our institution, which is guided strictly by its legal framework and we recall our undertaking to perform our duties honourably, faithfully, impartially and conscientiously.

The ceremony for the opening of the judicial year provides an opportunity not only to foster understanding about the work at our court but also to engage with judges of other jurisdictions in order to exchange views and experiences in our respective functions.

Earlier today, we held the first judicial seminar of the ICC, bringing together almost sixty judges from national jurisdictions, regional and international tribunals and our Court.

The discussions we held on the complementarity and cooperation of courts were inspirational, and paved the way for fruitful interaction in the coming years.

I am deeply grateful to the many presidents of courts and other senior judges that travelled from far away to be here with us. Their presence here honours our institution and symbolises our belonging to an interconnected, global justice system.

We have a lot in common as we all work to promote justice and the rule of law. Also, as the ICC is a last resort institution, all national judges may become involved in the same type of crimes and be confronted with similar challenges as we are. Indeed,

national action is expected and encouraged under the complementarity principle of the Rome Statute.

The future of the rule of law lies in dialogue and collaboration – not in isolation.

Excellencies, ladies and gentlemen,

The opening of the judicial year also marks the commencement of the year in which we celebrate the 20<sup>th</sup> anniversary of the Court's founding treaty, the Rome Statute.

This milestone will be marked in multiple celebrations during the year, one of the first taking place next month here in The Hague, organised by the Coalition for the International Criminal Court – which is indeed fitting as the civil society played a highly important role in the Court's creation.

I also had myself the privilege to participate in the negotiations on the treaty and be personally present in Rome on the adoption of the Statute.

Now, as I approach the end of my mandate as Judge and president of the ICC, I am happy to note that the Court has come far since its inception twenty years ago. The Court has matured and is confronted with an increasingly heavy judicial workload. It is now playing a central role in the international criminal justice system, and it is making important contributions to accountability for the gravest international crimes.

The concept of accountability is today firmly on the global agenda. It is now widely accepted that there is an obligation to end impunity for the most serious crimes of concern to the international community: The consolidation of this concept as a norm under international law has changed the parameters for the pursuit of peace.

Indeed, there is now an expectation that there will be accountability for the most serious crimes and the conviction that this is necessary for sustainable peace. The question is no longer whether to pursue justice, but rather when and how.

However, despite all the progress, there are still huge gaps where impunity continues to flourish. These can only be addressed through the joint justice efforts of international, regional and national systems. No single jurisdiction alone can deal with this type of crimes, which involve multiple perpetrators as well as thousands or hundreds of thousands of victims.

It is essential to emphasize, in particular, that each State has the primary responsibility to prevent, investigate and prosecute genocide, crimes against humanity, war crimes and the crime of aggression. International and regional jurisdictions can only supplement but never replace the actions of States.

As a positive result of the complementary system under the Rome Statute, an increasing number of States have updated their national legislation to be able to investigate and prosecute international crimes at the domestic level. Others have also established specialized units within their justice system in order to deal with these types of crimes.

All these initiatives are commendable and necessary to establish an effective system of global justice. That is why it is also important to deploy all efforts to enhance national capacity to investigate and prosecute massive crimes.

Excellencies, ladies and gentlemen,

Today we have paused for a brief moment to come together in this solemn gathering, but tomorrow morning we resume our judicial work, which is indeed going on in full force.

While today marks the formal opening of the judicial year, the truth is that we have already taken a flying start since the beginning of January with hearings and deliberations in our cases.

Three trials are in progress, and reparations proceedings are under way in four other cases, following convictions. Indeed, reparations to victims as a new frontier of judicial activity was one of the topical issues of the past year. Several reparations decisions were issued in 2017, awarding both collective and individual reparations.

Also the Appeals Chamber is occupied with appeals related to reparations proceedings, and, notably, the appeals against the final conviction and sentences issued in two cases. These two judgements are expected in the coming months.

The Pre-Trial Division is currently seized of a request by the Prosecutor to open an investigation into a new situation, following another such request that was granted last year.

Most colleagues are busy sitting simultaneously in several chambers, for instance hearing a trial in one case, while sitting in a pre-trial chamber or dealing with reparations in another case. This is inevitable taking into account that the number of judges remains eighteen, while the number of situations and cases before the Court continues to grow.

The expanding scope of our work underlines the importance of investing continuing efforts in improving the Court's performance and efficiency.

Much effort has been made by the judges of our court to this end, and much progress has been achieved in the last three years.

The judges have sought to improve and accelerate judicial proceedings through a collective assessment of the legal framework and methods of work. Among other efforts three judicial retreats have been central to channel collegial discussions across chambers and divisions, allowing judges to revise entire phases of the judicial cycle, identify and harmonize best practices and generate a number of initiatives to amend where necessary the legal framework, practices and methods of work.

The reforms we have put in place are already having a visible impact in our courtrooms and cases, including a clear and drastic reduction of the time required for some phases or aspects of proceedings.

I remain convinced that respect and cooperation for justice efforts is linked to performance. We must constantly strive to improve our governance as well as the speed and quality of the justice that we deliver in order to enhance our credibility and foster support.

2018 will be an extremely important year for institutional developments at the Court as six newly elected judges will be sworn in in March, replacing six of the current judges – including myself – on the bench.

The new composition of judges will need to take important decisions for the governance of the institution, including the election of the new presidency, and the election of the Registrar for a five-year term.

Integrating new judges, who come from different backgrounds, legal systems and traditions, every three years represents many challenges for the institution. While the regular injection of new energy and fresh ideas is necessary and highly welcome, we must at the same time strive to ensure sufficient legal predictability for parties and participants in the proceedings and safeguard reforms intended to increase efficiency. I am confident that efforts to consolidate a more cohesive judicial culture through a constructive dialogue will continue.

Excellencies, ladies and gentlemen,

The International Criminal Court was created on the belief that an international system cannot be associated with a particular legal system or a particular set of values. A truly international system incorporates elements of legal systems and traditions of the world and represents values that resonate across the globe.

This premise continues to be valid today. There is no particular legal system that is per se more apt for investigating and prosecuting this type of crimes. We must strive to

identify the best tools of each system in order to improve the quality of our work. We did it together at the ICC among all judges, and I believe this dialogue needs to extend to other courts and tribunals.

Our judicial seminar held today is part of the efforts to engage in a necessary dialogue between national and international judges on how best to tackle our respective justice mandates.

Excellencies,

As we commence the new judicial year, I would like to take a moment to acknowledge all those who play a role in our proceedings – some of them visible in the courtroom, some of the behind the scenes.

As in any court, the work of judges is assisted tremendously by the professionalism of the lawyers appearing before them. Indeed, the contributions of the counsel for the prosecution and defence as well as the counsel for victims are essential for the quality of our proceedings.

I would also like to acknowledge the indispensable services provided by the Registry of the Court. Without the assistance of interpreters, court management teams, security officers, audio-visual technicians, IT support and many others, we would not be able to do our work.

Last but not least, I would like to use this opportunity to recognize the contribution of all the individuals that make justice possible by accepting to appear before our Court as witnesses. They deserve our respect, support and admiration for their courage and invaluable support for justice efforts.

Central to our justice efforts are the victims of crimes. They have the right to participate in proceedings to express their views and concerns and request reparations for the harm suffered. Following earlier convictions, this innovative feature of our legal framework is now being tested and, and as I said earlier, proceedings on reparations are currently occupying much of our judicial docket. The vital role of the Trust Fund for Victims in this regard is also increasingly recognized.

The participation and reparation of victims is essential for a system of justice that seeks to be restorative as well as retributive. Their access to international justice enhances its impact and increases ownership by affected societies.

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Excellencies, ladies and gentlemen,

We are deeply honoured that His Excellency, Anthony Carmona, President of Trinidad and Tobago, accepted the invitation to be the distinguished guest speaker at today's ceremony.

I could not possibly think of a more fitting person for that task.

May I recall that Mr Carmona is the President of the country that put the initiative for the creation of an international criminal court in the global agenda in 1989. This set in motion the negotiating process that would lead to the adoption of the Rome Statute in 1998.

President Carmona is also a distinguished lawyer with extensive expertise in international criminal law. As such, he was elected as judge to our Court in 2012 – a position from which he resigned when he was elected to be head of State.

To this date, Trinidad and Tobago has remained one of the Court's strongest supporters, and we were grateful to hold a regional ICC seminar in Port of Spain almost exactly a year ago with the personal participation of President Carmona – reflecting his deep personal commitment to this institution.

He is a true friend of the Court in every sense. We look forward to hearing his remarks after a musical intermezzo.

I thank you for your attention.

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