

**Cour
Pénale
Internationale**



**International
Criminal
Court**

**Judge Sang-Hyun Song
President of the International Criminal Court**

Opening remarks
Regional Conference on the International Criminal Court

[Check against delivery]

*Ritz Carlton Hotel in Doha, Qatar
24 May 2011*

Your Excellency Sheikh Hamad bin Khalifa Al Thani, The Emir of the State of Qatar,

Your Excellency Dr. Ali Bin Mohsen Bin Fetais Al-Marri, The Attorney General of the State of Qatar

Excellencies, Distinguished delegates, Ladies and Gentlemen,

It is my great pleasure to address this first Regional Conference on the International Criminal Court. On behalf of ICC, I wish to greet all the representatives of States from this region and beyond.

I give special gratitude to the State of Qatar and the League of Arab States for hosting this timely event, which demonstrates a strong commitment to the shared values of peace and justice.

This conference gives us an ideal opportunity to discuss the furtherance of joint efforts against international crimes that concern all of humanity. I also hope that this historic event will pave the way for making the Rome Statute system of international justice even more global than it is today.

Excellencies,

Most of your states, and in fact many of your personally, took active part in the founding conference of the ICC in Rome, 1998. Sovereign states from around the world came together to ensure that the most serious international crimes known to humankind - genocide, crimes against humanity, war crimes and the crime of aggression - do not go unnoticed or unpunished.

There is no doubt in my mind that these heinous crimes, which tear apart our social fabric, represent a leading global challenge in the coming decades.

The ICC offers the world something new because it is independent from the United Nations and other political bodies. The Court is a permanent judicial institution that applies the law to all parties without discrimination.

Today, the ICC is a fully functioning court, with three cases on trial, involving gruesome allegations such as murder, rape, sexual slavery and the use of child soldiers. Five accused are currently in custody and nine other persons have voluntarily appeared before the Pre-Trial Chamber. 2011 is our busiest year yet.

Six situations are under investigation or prosecution. The Democratic Republic of the Congo, Uganda and the Central African Republic referred their situations to the ICC themselves. The situations in Darfur, Sudan, and Libya were referred to the ICC by the UN Security Council.

One investigation – concerning post-election violence in Kenya – was opened by the Prosecutor on his own initiative and approved by the Pre-Trial Chamber. Finally, as of last week, we have a seventh situation before the Court since the Prosecutor announced his intention to request authorisation to investigate the situation in Côte d'Ivoire since 28 November 2010.

The ICC Prosecutor is also conducting preliminary examination of a number of situations on several continents, including Afghanistan, Georgia, Guinea, Colombia, Honduras, Korean peninsula, Nigeria and Palestine.

As a Judge of the International Criminal Court, I would like to stress that **impartiality** and **fairness** are the cornerstone of all proceedings at the ICC.

In particular, the Rome Statute provides strong guarantees against any kind of frivolous or biased proceedings:

- First of all, no external body can initiate prosecution at the ICC. States Parties and the Security Council can refer situations to the ICC, but arrest warrants or summonses to appear can only be issued after an investigation and an assessment by the Prosecutor, and, even more importantly, only after a careful review of the supporting evidence by an independent bench of judges.
- Throughout the proceedings, the Judges guarantee the full respect of the rights of the accused and the rights of the victims. The five-judge Appeals Chamber, on which I sit, is the ultimate instance that can rectify any mistakes made at earlier stages of the procedure.

Excellencies,

We meet at the crossroads of three continents – Asia, Africa and Europe. What better place to emphasise what the ICC is trying to achieve – universal support in all continents of the world.

This is happening already with the rising numbers of States joining the Rome Statute each year. Last Friday, Grenada deposited its instrument of ratification at the United Nations, becoming the 115th State Party on 1 August 2011. Earlier this year I travelled to Southeast Asia to encourage more states to consider joining the ICC, and to my delight I learned that the Philippines, Malaysia, and the Maldives may do so in the near future.

But as the Rome Statute system increasingly becomes the world's instrument of choice in the suppression of atrocity crimes, Arab States remain critically underrepresented in the ICC. Just three countries – Jordan, Djibouti and Comoros – are party to the Rome Statute.

This is why I was truly delighted to hear of Egypt and Tunisia's interest in joining the ICC. If I understand correctly, Tunisia has already adopted a decision on accession to the Rome Statute, and the last remaining step is to deposit it at the United Nations.

At a time of political upheaval and uncertainty for several countries of this region, what better time to embrace the ICC, an institution that represents justice, security and peace and increases the legal protection of each member nation?

Now that the definition of the crime of aggression has been included in the Rome Statute, your countries could become leaders in the ICC family by ratifying the amendments on aggression at the same time with the rest of the Statute.

Most of you come from states that are not party to the Rome Statute and you may be wondering, "why should my country join the ICC"? Many reasons!

- First, as non state parties, you are outsiders looking into the Rome Statute system with no corresponding influence over the Court as enjoyed by States Parties. By joining the ICC your government will fully come inside the Court and be given the right to refer situations to the Prosecutor, among many other benefits:

- You will be able to contribute to the ICC's structure and operations as member states, through the Assembly of States Parties which effectively governs the Court. With equal voting rights, States Parties nominate and elect candidates for Judges, the Prosecutor, among other officials – the next election will be held in New York in December. Ratification will also increase the possibilities of recruitment of professionals from your country.
- You will send out a clear signal of your country's commitment to the rule of law, peace and the struggle against impunity. The ICC may be a relatively new court, but the Rome Statute system makes the vision of peace and stability possible through the joint efforts of States Parties to rectify wrongs, deter violence, and thereby build a peaceful and just future.
- By joining the Court, you will increase the protection of your nationals and your territory against the gravest international crimes. If someone commits or intends to commit Rome Statute offences on your territory, your country will not be alone in resisting and prosecuting such violence.
- You can help the ICC become a truly global court. When all territories become equal under the law of the ICC, referrals by the UN Security Council will largely become unnecessary.
- Finally, by ratifying the Rome Statute you will join a growing international movement of 115 States to ensure that the worst crimes known to humanity are not tolerated.

Excellencies,

- I want to also stress to you today that the ICC poses no threat to state sovereignty – on the contrary, the Court was created by nation states, is governed by states and the only way the Rome Statute can be amended is by the decision of states.
- Ratification of the Rome Statute has no retroactive effect and the ICC has jurisdiction over each country only from the moment they become a State Party.
 - Even when a State makes an explicit declaration accepting jurisdiction for past events, the ICC can **never** look into **any** crimes that occurred before 1 July 2002.

- The very first article of the Rome Statute emphasizes that the work of the Court “shall be complementary to national criminal jurisdictions”.
 - National jurisdictions are primarily responsible to try suspects of mass atrocities, and the ICC plays a secondary role, as a safety net, to prevent impunity when necessary.
 - As long as national jurisdictions properly investigate and prosecute any ICC crimes, the Court cannot and will not interfere.
- When the Rome Statute was being drafted, States were very concerned about retaining their sovereignty so they made sure there are many safeguards in place.
 - For instance, the ICC has no police force or arrest powers – this is one of many significant areas where the Court relies 100 percent on the cooperation of States to carry out key functions.

Excellencies,

The ICC has truly become a “game changer” in international relations. Responses to violence are no longer considered only from a political or a military perspective – instead, alleged atrocities of an international scale are now seen as a matter of the rule of law.

But the world needs your help to make this system stronger. Principles of justice and law are an essential part of the proud history and culture of your great nations, and the ICC will not be complete without your participation.

The stakes are high – essentially we are talking about the wellbeing of humanity. We have to do all in our power to spare future generations from the atrocities and suffering that we and forefathers have witnessed and endured.

In these uncertain times, let us come together to defeat that threat and make this world a safer place to live in now and for generations to come.

Thank you.