



**Cour
Pénale
Internationale**

**International
Criminal
Court**

Le Président
The President



Judge Sang-Hyun Song

President of the International Criminal Court

Annual Report to the United Nations General Assembly

Check against delivery

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Mr President,
Excellencies,
Distinguished delegates,
Ladies and gentlemen,

Forty-one years ago, this Assembly passed Resolution 3074¹ which recognized the *“special need for international action in order to ensure the prosecution and punishment of persons guilty of war crimes and crimes against humanity”*.

During the past year, the International Criminal Court has been busy engaging in exactly such international action, and I am honoured to present to you today the ICC’s 10th annual report to the United Nations.

We have reached many milestones in the last 12 months.

We now have a first final judgment and sentence, a conviction in the case of Mr Germain Katanga.

The number of investigations has grown from 8 to 9, and there are an unprecedented six cases at the trial stage of proceedings.

The ICC has issued the first final ruling that grants an admissibility challenge by a State, giving way to domestic proceedings.

The Court has launched its first proceedings on allegations of witness interference.

Ukraine became the second non-State party to lodge a declaration accepting the jurisdiction of the ICC.

Another 7 States Parties have ratified the amendments to the Rome Statute on the crime of aggression, and 6 States Parties have ratified the amendments which make the use of certain weapons in non-international conflicts a war crime punishable by the ICC.

¹ General Assembly resolution 3074 (XXVIII) of 3 December 1973

Mr. President,

Let me give a brief overview of the situations in which the ICC is involved.

The first phase in any situation before the ICC is a preliminary examination by the Prosecutor, who will assess whether the legal and factual conditions for opening an investigation are met.

This does not mean the matter must go to the ICC.

As you know, the Rome Statute is built on the principle of complementarity. Domestic courts have jurisdictional primacy – the ICC is a court of last resort.

And indeed during the preliminary examination phase, the national authorities retain the primary responsibility to make sure that any credible allegations are addressed in a genuine manner - which would make an ICC investigation unnecessary.

This is an integral part of the Rome Statute system's impact – encouraging national proceedings as a consequence of the ICC's involvement.

During the reporting period, the Prosecutor's office opened **preliminary examinations** in Central African Republic, Ukraine and Iraq, and closed the one in the Republic of Korea, finding that the requirements for an investigation were not met.

In Afghanistan, the Prosecutor's office found reasonable basis to believe that crimes against humanity and war crimes have been committed, and she accordingly expanded the examination to include admissibility issues.

Preliminary examinations also continued in Colombia, Guinea, Honduras, Nigeria, and the Gaza Flotilla situation following the referral by the Union of Comoros.

In the **situation of the Democratic Republic of the Congo**, several important developments occurred during the last year.

Mr Germain Katanga was sentenced to 12 years of imprisonment after he was found guilty of war crimes and a crime against humanity in connection with the attack on the village of Bogoro in Ituri province which took place on 24 February 2003. The verdict and the sentence became final as both parties withdrew their appeals. Proceedings on reparations for victims have begun.

13 charges of war crimes and 5 charges of crimes against humanity were confirmed against Mr. Bosco Ntaganda. His trial is scheduled to start in June next year.

The Appeals Chamber expects to deliver in the months ahead its judgments on the final appeals in the cases of Mr Lubanga and Mr Ngudjolo.

In the **situation in the Central African Republic**, final arguments in the trial of Mr Jean Pierre Bemba are expected next month. However Mr Bemba, together with four other persons, is also a suspect in a separate, related case concerning allegations of false evidence and corruptly influencing witnesses.

These proceedings regarding offences against the administration of justice are unprecedented at the ICC. They demonstrate that the Court takes witness interference very seriously.

In light of the recent tragic events in the Central African Republic, and following a new referral by its Government, the Prosecutor has decided to open new investigations there.

In the **situation in Uganda**, Joseph Kony and his three co-suspects regrettably remain at large.

In the **situation in Darfur, Sudan**, Trial Chamber IV issued an arrest warrant for Mr Abdallah Banda in light of information that the Government of Sudan would not cooperate in facilitating the accused's presence at trial. Further exchanges are

taking place with regard to the accused's ability and willingness to appear in court. He is charged with alleged crimes in connection with an attack on African Union peacekeeping forces in Haskanita.

The four other suspects in the situation of Darfur still remain at large.

In the **situation in Kenya**, the trial of Mr Ruto and Mr Sang continues. In the case of Mr Kenyatta, several motions by the parties are pending before the Trial Chamber after the recent status conference. In the case of Mr Walter Barasa, regarding allegations of corruptly influencing a witness, the ICC awaits his surrender to the Court by the Kenyan authorities.

In the **situation in Libya**, the Appeals Chamber upheld the admissibility decisions of Pre-Trial Chamber I in the two cases before the Court.

In the case of Mr Saif Al-Islam Gaddafi, the judges found that Libya had failed to demonstrate that its domestic investigation covered the same case that is before the ICC. Consequently, Libya is under a duty to proceed immediately with the surrender of Mr Gaddafi.

On the other hand, the Appeals Chamber confirmed the Pre-Trial Chamber's ruling that the ICC's case against Mr Abdullah Al-Senussi was inadmissible, as it was subject to ongoing domestic proceedings conducted by the competent Libyan authorities, and Libya is genuinely willing and able to carry out such proceedings on the same allegations as those before the ICC.

These decisions are an important addition to the growing jurisprudence which gives concrete shape to the principle of complementarity between the ICC and national jurisdictions.

In the **situation in Côte d'Ivoire**, Pre-Trial Chamber I confirmed four charges of crimes against humanity against Mr Laurent Gbagbo. The trial date will be set in due course. In the case of Ms Simone Gbagbo, an admissibility challenge filed by the government of Côte d'Ivoire is pending.

Mr Charles Blé Goudé was transferred to the ICC in March this year, following the unsealing of the arrest warrant. A decision on the confirmation of charges is pending.

Finally, in the **situation in Mali**, the investigation by the Prosecutor's Office continues with an emphasis on the three northern regions.

Mr President,

This month marks 10 years of the Relationship Agreement between the ICC and the United Nations. I would like to express the ICC's sincere gratitude to the UN for all the support and cooperation that we have long enjoyed.

We share the same core values. Both organisations are based on the ideals of peace, security and respect for human rights, and the realisation that these goals can only be attained through the rule of law and international cooperation.

Just as peace and justice go hand in hand, so must the UN and the ICC. Our partnership is indispensable for a strong international community and the protection of the interests of humanity as a whole.

As President of the ICC, it has been one of my priorities to nurture this important relationship. I am very proud of the effective cooperation that we enjoy today in a wide range of areas, and we are keen to explore ways to develop it further.

Where the fundamental building blocks of society threaten to break down, we often see the UN and the ICC working side by side, with mutually supportive mandates. We greatly appreciate the assistance we receive from the UN in the field, on a reimbursable basis.

At the level of the broader Rome Statute system, the UN and its specialized agencies make important contributions to strengthening the capacity of national judiciaries – which in turn helps States provide effective cooperation to the ICC.

Mr President,

Winds of renewal are blowing at the ICC.

The permanent premises of the ICC are fast rising in the dunes along the North Sea and the Court looks forward to moving into its new, purpose-built home before the end of 2015.

Next year, the remaining four judges from the very first generation of 2003 will leave the ICC.

I do see it as a great strength of the ICC that we rejuvenate our judicial bench with six new judges every three years. This guarantees a balance of continuity and fresh energy.

Many reforms are now taking place at the ICC.

Drawing lessons from the first wave of pre-trial and trial proceedings, the Judges are streamlining the criminal process through practical innovations.

The Prosecutor has introduced a new strategic plan, adapting her approach to investigations and prosecutions in light of the experiences of the first cases.

The Registrar is overhauling the support structures of the Court so as to serve the judicial proceedings in the most effective and efficient way, and to strengthen the ICC's presence in the field.

The ICC is an institution in constant movement, and so it must be if we wish to respond effectively to the ever-changing challenges we face.

But we cannot do it alone. Ultimately, the Rome Statute is only as strong as States make it. You hold the key to unlocking the ICC's full potential. The Court has no enforcement powers of its own.

We have the committed support of 122 States Parties. I would also like to acknowledge the significant contributions that have been made by a number of non-States Parties in extending highly valuable cooperation to the ICC.

As President of the Court I have reached out to many states not yet party to encourage them to join the Rome Statute.

I have spoken with government leaders, parliamentarians, legal professionals as well as civil society. I have drawn their attention to the legal protection and deterrent effect that the Rome Statute provides. I have underlined the principle of non-retroactivity, which means that joining the ICC is an insurance policy for a safer future, not a method for settling old scores.

I have highlighted the numerous checks and balances built into the ICC's legal framework – and I have stressed how the values of the Rome Statute reflect global solidarity and commitment to peace, security and international law.

I am delighted that over recent years the ICC family has gained many new members, and I hope and believe that this process will continue. It is only by steadily building global support for the Rome Statute system that we will achieve its ultimate aim of universality, with the corollary of no hiding place for the perpetrators of international crimes.

In this context it is of great concern to me that requests for arrest and surrender issued by the ICC remain outstanding for 13 persons, some of them since 2005.

Nine years at large is an affront to justice, to victims, and to the global community which wants to see those suspected of the most atrocious crimes face the charges against them.

But the suspects should not think that they have evaded justice. We have seen fugitives from international courts arrested after much longer periods of time.

None of this is meant to undermine the presumption of innocence. It remains a cornerstone of the ICC's proceedings at all times, together with legality and due process. But the only way for suspects to make the charges go away is to confront them at the ICC, in scrupulously fair proceedings before a court of law.

Just as the ICC respects the rights of the suspects and accused, we also strive to provide justice to victims.

Parallel to the judicial proceedings at the Court, the Trust Fund for Victims provides a very concrete response to the urgent needs of numerous victims of crimes within the jurisdiction of the ICC. The Trust Fund's programmes of physical and psychological assistance, as well as material support, are implemented by locally based partners and currently support over 110,000 victims, their families and communities in Uganda and the Democratic Republic of the Congo.

The empowerment of women and girls is a fundamental requirement of any justice, reconciliation and peace-building process. Over 5,000 Trust Fund beneficiaries are survivors of sexual and gender-based violence.

The following is a testimony of Salima, a victim of sexual violence in South Kivu, DRC, and a beneficiary of a Trust Fund supported project.

"We had no experience in business. Little by little I learned through training to conduct my small business. Now, I have two plots of land, and I have a husband! My husband had his own children and I came with mine, and all have been educated. On one of my plots, I built a house for my children. I do my small trade and I'm contributing to the development of my community."

The Trust Fund depends upon donations, which may also be needed to fund reparations when a convicted person is indigent. Once again I thank those States that have generously supported the ICC's Trust Fund for Victims with voluntary contributions, and I call upon others to consider doing so, for the benefit of the victims.

Mr President,
Excellencies,
Distinguished delegates,
Ladies and gentlemen,

This is the last speech I will give before this Assembly on behalf of the International Criminal Court. My mandate as Judge and President will come to an end next March.

It has been a tremendous honour to serve the ICC in its historic, formative phase.

When the first 18 judges of the ICC gathered at the interim premises of the ICC in The Hague eleven years ago, we were not certain about the future of the Court.

Would we be able to turn the ICC from a court on paper into an active judicial institution? Would States embrace the Court's mandate in practice? Would the ICC be able to make a difference, have an impact?

My firm belief is that the answer to all these questions is a resounding "Yes".

What used to be an idea is now a reality.

We now have a permanent international body that can hear allegations of large-scale international crimes, and investigate and prosecute such acts when justice cannot be achieved in national courts.

The ICC has launched investigations in response to four referrals by States, two referrals by the Security Council, and a declaration accepting jurisdiction by one non-State party at the time.

Our cases involve hundreds of thousands of victims.

The ICC's growing jurisprudence of international criminal law builds on the historic achievements of the *ad hoc* tribunals and mixed courts established or supported by the United Nations. We have broken new ground on issues such as the use of child soldiers and gender-based violence.

The ICC is responding to humanity's call for justice, helping to change the world for the better.

Instead of being a rare exception, accountability for international crimes has become something that communities, victims and societies around the world expect and demand, in keeping with that resolve which this Assembly expressed four decades ago in its Resolution 3074.

The perpetrators of mass killings, deportation, attacks on civilians and rape as a weapon of war can no longer count on impunity.

Today, the prospect of international prosecution helps deter the deadliest and most atrocious acts imaginable.

But we are still far from ending impunity. Billions of people fall outside the protective cover of the Rome Statute, and atrocities are rampant in some parts of our shared planet.

It is my dream to see the entire world united in a strong system of international criminal justice that will, above all, help us prevent the worst crimes from happening altogether.

Without the rule of law, there cannot be justice, there cannot be sustainable peace, and there cannot be universal respect for human rights.

I appeal to the 31 signatory States as well as other non-States parties to the Rome Statute to seriously think about joining the ICC.

Give the gift of hope to the children, men and women of tomorrow.

Thank you.