



**Ms. Fatou Bensouda
Prosecutor Elect of the International Criminal Court**

Launch of the Gender Report Card on the International Criminal Court 2011

Hosted by Women's Initiatives for Gender Justice

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Ladies and Gentlemen,

Let me start by congratulating Women's Initiatives for Gender Justice for the launching of this seventh's Gender Report Card on the International Criminal Court.

I am very pleased for this opportunity to address you on this occasion, and am very glad to give my first public statement as the newly elected Prosecutor of the ICC in this forum.

As you know, throughout my career as Attorney General and Minister of Justice in my home country, Trial Attorney at the International Criminal Tribunal for Rwanda and Deputy Prosecutor at the ICC, I have always placed a big emphasis on addressing and prosecuting sexual and gender crimes. These are crimes that have gone un-reported and un-punished for so long, with so much shame and misconceptions involved. It is my belief that the law and judicial proceedings are a powerful tool to shed light on these crimes, give a voice to the victims and punish their perpetrators. The law will help to change behaviour.

As you know, the Rome Statute of the International Criminal Court is the result of a recent evolution in international law, recognizing gender violence and gender crimes. It is only in the Statute that a basis in gender first became an element of crime in positive law, specifically of persecution as a crime against humanity. Various provisions of the Statute also proscribe what can be characterised as gender crimes, such as rape, sexual slavery, enforced prostitution, forced pregnancy, as a war crime and/or crime against humanity.

Article 54 of the Rome Statute of the ICC specifically provides that the Prosecutor shall *"take into account the nature of the crime, in particular where it involves sexual violence, gender violence or violence against children"*. Additionally, Article 42(9) of the Statute requires the Prosecutor to appoint advisers with legal expertise on specific sexual and gender violence. The Office stresses that this is not only a statutory obligation, but also a requirement for effective investigations and prosecutions taking into account the interests of victims. Accordingly, the Office has established a unit, the Gender and Children Unit (GCU), comprised of advisers with legal and psycho-social expertise to deal specifically with gender and children issues. The GCU advises the Prosecutor directly and provides support to the Office's divisions, from pre-analysis through to prosecution phases. Furthermore, Professor Catharine A. MacKinnon was appointed as

Special Gender Adviser to the Prosecutor of the ICC on 26 November 2008, and provides strategic advice to his Office on sexual and gender violence.

It is in this sense that the OTP has consistently endeavoured to ensure its staff receives the proper training to integrate a “gendered” perspective into its investigations and cases, while at the same time presenting gendered aspects of conflict in connection with the contextual elements of the crimes as defined by the Rome Statute. During the reporting period of the Gender Report Card on the ICC you are launching today, I am proud to say the Office has participated in 11 gender-related trainings and attended 13 gender-related events throughout the world.

As a lawyer, I have welcomed these important developments in international criminal law; as Deputy Prosecutor of the ICC for the past seven years, and as the OTP’s focal point for gender issues, I have endeavoured to ensure that the gender perspective is always taken into account in our investigations and prosecutions.

Indeed, the most striking quality of the pursuit of gender crimes by the ICC to date has been that they are there: their centrality to every prosecution so far, in a way that clarifies how the sexual abuse becomes a specific instrumentality in each conflict.

- In our first trial, against Thomas Lubanga Dyilo, although it was not charged directly as additional crimes, during the course of the trial, we explained the gender dimension of the crime of enlisting and conscripting children under the age of 15 years. The Office took note of the reactions of civil society and their preference for these aspects to be explicitly charged. Sexual and gender crimes were included directly in our charging in the subsequent Katanga/Ngudjolo case and the Mbarushimana case, in fact in all other cases before the ICC today.
- Sexual violence is not only a major concern in the DRC; our decision to open an investigation into the situation in the Central African Republic represented the first time for the international criminal justice system to deal with a situation where allegations of sexual crimes far outnumbered alleged killings.
- This Office also charged the President of Sudan, Omar Al-Bashir, of committing genocide inter alia through the fact that thousands of civilian

Gender crimes are prominent in our prosecutions because they are prominent in the contexts being prosecuted. This only becomes remarkable against the backdrop of the prior, and still prevalent, norm of denying their existence, ignoring them, shaming their victims, and or defining them in legally improvable ways. In other settings, it has been as if there was a tacit agreement to look the other way as women and children were sexually abused – minimizing, trivializing, denigrating, and silencing the victims, destroying their credibility and further violating their dignity, so abusers can continue unimpeded. The body of the ICC's first cases, however, signals to the world that here, at least, this deal is off.

I would like to take this opportunity to thank Women's Initiatives for Gender Justice for their support, to me and to the OTP throughout these years. Civil society has a crucial role to play, and I would like to recognize here the important work of Women's Initiatives, as well as that of local gender groups in situation countries, that provide sometimes the only form of support available for gender crimes victims, who often are excluded and shunned from their communities.

During my tenure, and following advice from our Special Gender Advisor, I will strengthen the cooperation between the OTP and these groups, in order to support their efforts and continue our efforts to reach out more to the victims. This Office will make sure they see the crimes they have suffered from being punished; their perpetrators being arrested and prevented from committing additional crimes. This is a commitment I make to you all today.

I hope to be able to count on the support of all those present here today to continue this work.

Thank you