

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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President of the International Criminal Court**

*Address to the United Nations General Assembly*

*New York  
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Mr. President,  
Excellencies,

I am honoured to address this distinguished forum for the third and final time during my current mandate as President of the International Criminal Court.

It has been a year of considerable development for the ICC. With two new investigations and several new cases, the Court is busier than ever. At the same time, trials have progressed well and the first verdicts are expected soon.

I am delighted to say that international support for the ICC has continued to grow. Five new states have joined the Rome Statute, bringing the number of States Parties to 119.

While the ICC is an independent organisation, its relationship and cooperation with the United Nations have continued to be as vital as ever, and it is my great pleasure to present to you the Court's seventh annual report to the General Assembly.

Today I would like to brief you on the main developments at the ICC, as well as highlight the relevance of the Court's work for the global efforts to protect human rights and to promote the rule of law.

Let me first update you on the main developments on the judicial front.

The number of situations under ICC investigation has risen from five to seven during the last year.

On 26 February this year, the UN Security Council, in response to the conflict in the Libyan Arab Jamahiriya and what it called "the gross and systematic violation of human rights", unanimously adopted Resolution 1970 which among other measures referred the situation in Libya since 15 February 2011 to the Prosecutor of the ICC. Following the Prosecutor's investigation, the Court's Pre-Trial Chamber issued warrants of arrest on the 27th of June against Muammar Gaddafi, Saif Al-Islam Gaddafi and Abdullah Al-Senussi.

Since the filing of the ICC's written report, the Court has authorised investigations into a seventh situation, that of Côte D'Ivoire. While not a State Party to the Rome Statute, Côte D'Ivoire accepted the ICC's jurisdiction in 2003 and President Outtara confirmed that decision last December, pledging full cooperation with the Court.

Following a request by the Prosecutor, the ICC's Pre-Trial Chamber on 3 October 2011 authorised an investigation into alleged crimes committed since 28 November 2010 in the wake of Presidential elections in Côte D'Ivoire.

The ICC's first trial concluded in August with closing statements in the case against Thomas Lubanga Dyilo, charged with the use of child soldiers in the Democratic Republic of the Congo. Judgment in this case is expected before the end of this year.

The presentation of evidence is nearing its conclusion in the second trial arising from the situation in the DRC, concerning charges against Germain Katanga and Mathieu Ngudjolo Chui for the use of child soldiers, rape, murder and other crimes. A judgment is likely to be issued in the first half of next year.

The ICC's third trial opened in November last year against Jean-Pierre Bemba, who is charged as a military commander with rape, murder and pillaging allegedly committed in the Central African Republic. The trial has progressed well and the prosecution case is at an advanced stage.

We also have a fourth trial under preparation, stemming from the situation in Darfur, Sudan. War crimes charges in connection with an attack on an African Union mission were confirmed against Abdallah Banda and Saleh Jerbo in March. The process of disclosure of evidence in this particular case illustrates some of the many challenges the ICC deals with in order to secure a fair trial. The evidence is required to be translated into *zaghawa*, as the accused do not fully understand and speak another language. However there are virtually no professional translators or interpreters for *zaghawa*, and the ICC has had to hire and train native speakers to reach the required level of proficiency to provide language support.

The proceedings in the situation in Kenya have progressed significantly in the past year. There are two cases, each involving three senior persons alleged to be responsible for murder, persecution and other crimes in connection with the violence that erupted in Kenya following elections held in December 2007. All six individuals complied with summonses issued by the Pre-Trial Chamber in March and voluntarily came to the Court, first in April for an initial appearance, and again in September for more substantive hearings on the confirmation of charges. In January at the latest the Pre-Trial Chamber will issue its rulings on whether the cases should proceed to trial.

In the context of the Kenya situation, the ICC set a legal precedent by dismissing the Kenyan government's challenge against the admissibility of the two cases. The Pre-Trial Chamber and the Appeals Chamber both held that the Government of Kenya had failed to provide sufficient evidence to substantiate that it was investigating the six suspects for the crimes alleged in the proceedings at the ICC.

A decision on the confirmation of charges is also pending in the case against Callixte Mbarushimana, charged with attacks on the civilian population allegedly committed in the Kivus region of the Democratic Republic of the Congo in 2009. He was arrested last year by the French authorities, and I thank France for this valuable cooperation with the ICC.

In addition to the seven investigations, the Office of the Prosecutor is conducting preliminary examinations regarding Afghanistan, Colombia, Georgia, Guinea, Honduras, Nigeria, Palestine and the Republic of Korea, as well as receiving information concerning many other countries. Such situations, however, do not necessarily evolve into formal ICC investigations, particularly if the competent national authorities investigate the crimes and prosecute the alleged offenders.

Mr. President, Excellencies,

Last year when I spoke to you, I expressed my deep concern over the fact that the ICC's arrest warrants for Joseph Kony and three other alleged commanders of the Lord's Resistance Army had been outstanding for more than five years in the situation in Uganda. Unfortunately, that still remains the situation, and the same applies to Bosco Ntaganda in the situation in DRC. In the situation in Darfur, the arrest warrants against President Al-Bashir as well as Ahmad Harun and Ali Kushayb remain outstanding.

This is deeply distressing for the victims as well as the international community, and I implore states to redouble their efforts to bring the persons in question to justice. I also wish to recall that the Security Council has urged **all** member states to cooperate with the ICC with respect to the situation in Darfur, Sudan, and the situation in Libya.

Mr. President, Excellencies,

Explaining to victims why some arrest warrants have not yet been implemented is one of the challenging tasks of the ICC's Outreach Programme. Every week, often in remote towns and villages of the situation countries, Outreach meets with hundreds of people, making the process of justice more accessible and understandable to those affected by the crimes under the Court's jurisdiction. Special sessions are organised for groups consisting of women and children.

I have personally had the privilege to participate in Outreach activities in the Democratic Republic of the Congo and Uganda. I was deeply moved by the victims' struggle to rebuild their lives, and their cries for relief and justice.

The concern for the plight of victims is reflected by the various ways in which victims are empowered by the Rome Statute: as participants in judicial proceedings, as recipients of reparations following a Court conviction, and as beneficiaries of victims' assistance provided by the Trust Fund for Victims that is associated with the ICC.

Working in the situation countries, the ICC informs victims about their rights and helps them turn the possibilities offered by the Rome Statute into concrete action. During the last 12 months alone, the Court has received more than ten thousand victims' applications for participation or reparation. Legal assistance provided by the ICC has made it possible for thousands of victims to participate in the proceedings through their lawyers.

More than four years of victims' assistance in northern Uganda and DRC have seen the Trust Fund for Victims mature into a solid institution. By recognizing the particular needs of victims of the most serious crimes, for instance for reconstructive surgery and trauma-based counselling, the Trust Fund has been able to articulate a truly human dimension to the process of international criminal justice.

As the ICC's first judgments are drawing closer, we may in the coming year see also the first-ever judicial decisions by the ICC on reparations to victims. When that moment comes, the Trust Fund for Victims will have an important role to play: as an implementing agency for Court-ordered reparations as well as a possible source of complementary financing of reparations awards, in the case that a convicted person is found to be indigent.

Mr. President, Excellencies,

Five countries have acceded to or ratified the Rome Statute in 2011, which is more than during any single year since 2003. I would like to take this opportunity to extend a warm welcome to Grenada, Tunisia, the Philippines, the Maldives and Cape Verde that have taken that important step during the last six months. I thank all those who facilitate informed discussions about the Rome Statute in different parts of the world, for instance Qatar that hosted the first regional conference on the ICC for the MENA region in May.

Many important decisions are carried out by the States Parties, including amendments to the Rome Statute and the election of the highest officials of the Court. The forthcoming session of the Assembly of States Parties in December here in New York will be of particular significance, because for the first time since the Court's establishment, both a Prosecutor and six new Judges will be elected.

An important change will also occur at the helm of the Assembly of States Parties, which will receive a new President. I would like to pay tribute to Ambassador Christian Wenaweser, the

Permanent Representative of Liechtenstein to the United Nations, who has provided excellent leadership to the Assembly for the last three years, and welcome Ambassador Tiina Intelmann of Estonia who has been recommended by the Bureau of the Assembly as his successor.

Mr. President, Excellencies,

A month ago, the Secretary-General pronounced from this podium that “[t]o prevent violations of human rights, we must work for the rule of law and stand against impunity”. I wholeheartedly agree with this statement, which highlights the relevance of the Rome Statute and the ICC to the wider international efforts to protect human rights and to promote the rule of law.

Indeed the preamble of the Rome Statute sets out the Court’s objectives several of which overlap with the purposes of the UN. The common objectives of these two institutions include the prevention and punishment of serious international crimes, maintenance and restoration of international peace and security; and guaranteeing lasting respect for and enforcement of international law.

The ICC is deeply grateful for the invaluable cooperation we continue to receive from the United Nations in a wide variety of areas, ranging from security and field operations to the exchange of information and testimony of UN officials. I greatly appreciate the mainstreaming of ICC issues through the UN system, and the UN’s significant support for strengthening national capacity to address atrocity crimes in accordance with the principle of complementarity enshrined in the Rome Statute.

I warmly welcome the increased focus that the UN is placing on the rule of law and justice, through regular reports and discussions here in the General Assembly and the Security Council. I am optimistic that the proposed high-level meeting on the rule of law to be held during the 67<sup>th</sup> session of the UN General Assembly will provide a new impetus to these discussions.

The UN and the international community have recognized that justice is an integral element of conflict resolution. In his 2009 report on mediation, the Secretary-General stated that “[w]hen conflicts lead to gross violations of human rights and international humanitarian law, peace and justice are indivisible”.<sup>1</sup>

The report cautioned that ignoring the administration of justice leads to a culture of impunity that will undermine sustainable peace<sup>2</sup> and recognised that when “the jurisdiction of the [ICC] is established in a particular situation, then, as an independent judicial body, the Court will proceed

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<sup>1</sup> S/2009/189, para. 35.

<sup>2</sup> Ibid, para. 37.

to deal with it in accordance with the relevant provisions of the Rome Statute and the process of justice will take its course”.

I call upon all actors to follow this guidance to respect the ICC’s jurisdiction. For justice to have an impact, it must follow its own rules, without interference and without being subject to political considerations.

Mr. President, Excellencies,

On 1 July 2012, we will celebrate the Court’s tenth anniversary. Coinciding with that, a new chapter will open for the ICC as the mandate of the first Prosecutor, Luis Moreno Ocampo, comes to an end and he hands the baton to his successor.

With the increasing relevance of the ICC in the international community’s response to conflicts, the amount of work before the ICC has grown significantly. So far, the Court has managed to cope by seeking savings and simply working harder, and I am proud that we can play such an important role at the service of the international community. However if the expectations placed on us keep growing while our resources remain the same, the situation may become untenable.

I appeal to all UN member states to stand united behind the international efforts to suppress the gravest crimes known to humanity. The Rome Statute is based on common values of fundamental importance – peace, security and the well-being of the children, men and women of the world.

By joining this community, each state adds a brick to a wall that protects future generations from terrible atrocities.

Thank you.