



Cour
Pénale
Internationale
International
Criminal
Court

Le Président
The President

H.E. Silvia Fernández de Gurmendi

President of the International Criminal Court

Roundtable discussion among President of ICC and PGA Malaysia National Group

Parliament of Malaysia

Keynote remarks

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Honourable Minister Nazi, Chair of PGA Malaysia National Group

Honourable Mr Kula Segaran, Secretary of PGA Malaysia National Group,

Honourable Members of Parliament, members of PGA Malaysia National Group,

Mr. Secretary-General of PGA,

Ladies and gentlemen,

It is a great pleasure for me to be here at the Parliament of Malaysia as a guest of PGA Malaysia National Group.

I am very pleased to visit your country and to have the opportunity to contribute to informed consideration of Rome Statute accession through dialogue with the relevant officials.

As you know, the ICC was created in the conviction that justice is an indispensable element of durable peace.

States came together to create a permanent judicial institution that could hold perpetrators of genocide, crimes against humanity and war crimes accountable.

The idea of a permanent international criminal court is an old one, and there were attempts to create such a court after World War II, but the cold war soon put a stop to these ambitions.

The project of a permanent court was revived some 45 years later, and the 1990s proved to be a fertile decade for these efforts.

The Statute that was adopted in Rome in 1998 represents a well-considered balance of different considerations:

It provides for an independent and sufficiently strong Court– but at the same time, the Statute carefully ensures respect for state sovereignty and contains a number of checks and balances to avoid excess.

The Statute combines aspects from the different legal systems of the world, creating a hybrid procedure that is truly international.

The Statute entered into force in 2002, after 60 States had joined the treaty. Therefore, this is our 15th anniversary year, and next year will be 20 years from the adoption of

the Statute. Today, we have 124 States Parties, almost two thirds of all sovereign states of the world.

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In its relatively short history, the Court has already made important achievements and managed to assert its important role in the global justice system.

Several African States turned to the Court early on to seek its intervention to address atrocities committed on their territories. That triggered the Court's first investigations.

In fact, out of the ten investigations of the Court so far, most were initiated at the request of African States, or after referral by the UN Security Council.

Within these situations, there have been 23 cases so far, involving almost 40 suspects or accused.

Judgements of the ICC have made important steps in addressing notorious international crimes such as the use of child soldiers, attacks on civilian population, and sexual violence in conflict.

Last year the Court had its first trial in relation to the war crime of destruction of cultural property, concerning Timbuktu, Mali.

The convicted person, Mr Al Mahdi, was a prominent figure in a non-state armed group in Mali associated with Al Qaeda.

He pleaded guilty to the war crime of destroying religious, cultural and historic sites in Timbuktu, and he was sentenced to 9 years of imprisonment.

During the trial, Mr Al-Mahdi expressed remorse, and called upon others not to become involved in the kind of violent acts that he had committed.

This case is extremely important at a time when the destruction of cultural property is used increasingly as a tactic of war by armed groups.

Beyond the Al-Mahdi case, in fact most trials at the ICC so far have concerned members of non-state armed groups. The nature of armed conflicts has changed radically over the last decades, and as you know very well, non-state actors today present a serious threat to peace, security and the enjoyment of fundamental human rights in numerous parts of the world.

The ICC is playing an important role in addressing this and other challenges facing the international community today.

The Court has given a voice to victims, who can participate in proceedings and seek reparations for the harm suffered.

Judges have issued their first orders on reparations to victims, as foreseen in the Statute.

The Trust Fund for Victims has provided rehabilitation and material assistance to more than 300.000 victims already in the Democratic Republic of the Congo and Northern Uganda. I visited some of these important projects myself just two months ago, in Northern Uganda in a joint visit with the Trust Fund for Victims.

Justice is not just about retribution. There must also be a reparative element.

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Honourable Minister, honourable Members of Parliament,

The ICC is doing what it was created to do: it is addressing impunity for core international crimes and providing justice for victims.

The ICC's role is not to replace or compete with States. It is a court of last resort, a complementary court that can intervene only when national courts cannot or will not act. This is the law under the Rome Statute. The ICC cannot intervene if crimes are addressed by local courts.

The ICC, together with national jurisdictions, forms part of a global justice system that has come incredibly far in 15 years.

However, we face an important challenge in enhancing membership in the system.

The Court has a global mandate but has not yet attained universal participation in the treaty. This means that the Court cannot address equally all situations that would deserve its attention.

Indeed, the Court is bound by the limitations of its treaty. We can only investigate crimes committed in a State Party, or by nationals of a State Party, unless there is a referral by the United Nations Security Council that gives us jurisdiction.

This is a serious challenge not only for the effectiveness of the Court but also for its legitimacy.

It means also that not all victims have equal access to justice.

That is why the Court together with the international community is constantly deploying efforts to promote universal ratification of the Rome Statute.

Unfortunately, the Asia-Pacific is the most underrepresented region in the ICC; only one third of its States have joined the Court. This must change. The ICC is a global court and it needs the equal support of all regions.

Participation in the Rome Statute strengthens a rules-based international order aimed at durable peace, human security and sustainable development.

Joining the ICC demonstrates commitment to international law.

It shows solidarity with victims of the most serious crimes of concern to the international community.

And it contributes to the deterrence of future crimes, both in your own country as well as globally.

Honourable Minister, Honourable Members of Parliament, Ladies and gentlemen,

We have a shared interest and joint responsibility to ensure that mass atrocities do not go unpunished, and that there is justice for victims.

The ICC is an important part of international efforts to fight violent movements that threaten the peace and stability of the world.

Accession to the Rome Statute is a sovereign decision for Malaysia to take. The Court, and I personally, are prepared to assist in any way you may see appropriate.

Thank you again for inviting me here. I look forward to our discussions.

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