

Mr. Mahloof on Strengthening Gender Justice through International Cooperation and the Rule of Law (Panel III, Thursday, 26 May, 15:00–17:30)

PGA Seminar on promoting gender justice and rule of law through regulations at the national level

Ladies and Gentlemen, Distinguished Colleagues,

It is a pleasure to be here today, to participate on this panel. The Republic of Maldives has a special history. I was deeply honoured to have been part of the constitutional assembly which created our first truly democratic constitution. And following its adoption, I was further honoured to have been elected to the first democratic Parliament, in a system now mediated by checks and balances, with a separation of powers, and independent institutions of horizontal accountability. I am now serving my second term, having been elected with the highest number of recorded votes in the country.

A democratic constitution, establishing a basic framework, is just the first step in the road towards democracy. The actualization of its words and its spirit can only occur through legislation. The bill of rights that it outlines, the protections it offers vulnerable populations, the guidelines it creates for the application of justice, all needs to be formalized and codified through law. Since the Constitution's adoption in 2008, followed by Presidential, Legislative and Local elections, this has been our job. Legislation like the domestic violence and child abuse acts, like the penal code replacing its predecessor from 1965, are building blocks which I reflect upon with great pride.

What we have been doing, is creating a foundation for the effective application of the rule of law. However, this foundation is not enough. Contrary to popular opinion, the rule of law moves beyond this foundation. The rule of law is not the mere application of existing guidelines. It is not the exercise of courts making rulings based upon the basic letters outlined in existing legislation. The rule of law is the application of a spirit. It is the application an international set of norms that ensure justice for every man, woman and child.

This is why it was so important for the Maldives to accede to the Rome Statute. This is why I voted in favour of acceding to the Rome Statute in 2011, with the Maldives thereby becoming a State Party to International Criminal Court (ICC).

When we fail to aspire to implement the true meaning of the rule of law, when we fail to assure justice to all our peoples, we fail in the mandates that our constituents have afforded us. It is a shame that of the 53 Member States of the Asia-Pacific Group, only 19 countries have acceded to the Rome statute. That of 193 UN Member States, only 124 nations have committed to eliminating impunity, deterring violence, and preventing future crimes.

A just future begins with us, and I welcome my fellow lawmakers here today to make efforts towards this future as well.

Colleagues,

The enduring spirit of justice cannot exist when the gravest crimes and violations of human rights persist. The Office of the Prosecutor has confirmed gender based violence and crimes as among the gravest that could be committed. I applaud the recent conviction of the former Vice-President of the Central African Republic for the use of rape as a crime against humanity. I pray that we continue to seek out any who would use such methods and show them the full measure of the justice they deserve.

The Statute of the ICC ensures that sexual crimes constitute crimes against humanity and war crimes. These include in particular rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, and other forms of sexual violence. That we have recognized these offenses as crimes is the key to ending impunity for these atrocities.

An international system, like the ICC, is an inherent complement to our national efforts. Member States have primary jurisdiction to investigate and prosecute the most serious crimes, and the capacity to do so is enhanced through the Rome Statute system. Because the Office of the Prosecutor can only investigate a limited number of persons, the primary obligation still remains with the state. However, genuine efforts naturally result in strengthening gender justice at the national level. These efforts contribute to the deterrence of future sexual crimes. Further, the ICC actively engages with states to improve the effectiveness of its actions on sexual crimes, ranging from informational activities, to training, to other methods.

But at the end of the day, it all comes down to this: a nation cannot effectively function when atrocities are allowed to persist. And thus, we have an obligation to ensure that we seize every opportunity to strive for a just future. Following our terms in office, most precious and most lasting legacy we can leave, is to ensure that we create a stable environment, founded in the Rule of Law, and ensuring justice for all,

Thank you.

Other Notes:

Importance of ratification of the Rome Statute

- The seminar has a significant potential to further the participation of the Asia-Pacific region in the Rome Statute system. The Asia-Pacific region is the most underrepresented region in the ICC's Assembly of States Parties. Of the 53 countries of the Asia-Pacific Group of States, merely 19 are party to the Rome Statute. It is crucial to further the universality of the Rome Statute in the Asia-Pacific as a united region. Joining a global movement of 124 peace-loving Law-abiding nations contributes to ensuring that the most serious crimes are not tolerated and impunity is no longer awarded to the perpetrators of those crimes. The Rome Statute system actively strives to promote peace and security, deter ongoing violence, prevent future crimes and thereby build a peaceful and just future.
- As a member of parliament of an state that have ratified this very important and relevant treaty I would like to kindly recommend you to take the necessary national and sovereign steps to become part of this justice system.

Strengthening gender justice through ratification of the Rome Statute

- It is undisputable that joining the ICC provides protection to citizens against the gravest crimes and violations of human rights. By being members to the Rome Statute, citizens are able to benefit from the international justice system. The recognition that sexual and gender-based crimes are amongst the gravest crimes under the Rome Statute has been confirmed by the Office of the Prosecutor who set their effective investigation and prosecution as one of the key strategies of the Office.
- Sexual violence has been continuously used as a tactic of war. In practice, the Court has proven itself to be sensitive to gender crimes. The most recent conviction of Jean- Pierre Bemba, former Vice-President of the Central African Republic, has been the first conviction before the ICC for crimes of sexual violence of rape as crimes against humanity and war crimes. It is also the first case in which testimony from male victims of sexual violence was heard in support of the charge of rape.
- The legal framework of the ICC contains various provisions designed to ensure the effective investigation and prosecution of sexual and gender- based crimes, and to protect the interests of victims and witnesses of these crimes. The provisions on sexual and gender-based crimes under the Rome Statute are a historic development under international law. The Statute of the ICC is the first international instrument that encompasses various forms of sexual and gender-based crimes as underlying acts of both crimes against humanity and war crimes committed in international and non-international armed conflicts. These include in particular rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, and other forms of sexual violence. Sexual and gender - based crimes may also constitute acts of genocide.
- As an insufficient response to commission of sexual and gender based violence might on many occasions derive from an inadequate treatment of these crimes under domestic legal instruments, the recognition of the sexual and gender based crimes is a key to ending impunity for these crimes. Therefore, by ratifying and implementing the Rome Statute,

the status of protection of sexual crimes is reinforced not only at international level, but also at national level as these crimes become a part of the domestic criminal legislation.

Strengthening gender justice through international cooperation

- The ICC is complementary to national jurisdictions. The Member States dispose of the primary jurisdiction and obligation to investigate, prosecute and adjudicate the most serious international crimes. The Office of the Prosecutor thus combines its efforts to prosecute those most responsible with national proceedings for other perpetrators. As a result of these jurisdictional and admissibility considerations, the Office will be able to prosecute only a limited number of persons. In an effort to close the impunity gap, it is therefore crucial that States comply with their primary responsibility to investigate and prosecute serious international crimes effectively, including sexual and gender-based crimes.
- This genuine national legislative efforts result in strengthening the gender justice at national level and contributes to deterrence of commission of future sexual and gender-based crimes. Therefore, joining the Rome Statute system reinforces the States' individual sovereignty in criminal matters and actually enhances their capacity to conduct investigations and prosecutions for sexual and gender-based crimes.
- The ICC also actively engages with States in order to improve the effectiveness of its actions with regard to sexual and gender-based crimes. This might also comprise a gender perspective in its public information activities which seek to maximise awareness and the impact of its work. These activities might serve as another means of inspiring or encouraging States to improve methods on how to address sexual and gender-based crimes.