

**Cour
Pénale
Internationale**



**International
Criminal
Court**

**Judge Sang-Hyun Song
President of the International Criminal Court**

Keynote Remarks

Parliamentarians for Global Action

Consultative Assembly of Parliamentarians on the ICC and Rule of Law

[check remarks against delivery]

Kampala, Uganda
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Mr. Speaker,
Mr. Chief Justice,
Mr. Ambassador of the EU,
Excellencies,
Ladies and Gentlemen,

Good morning. It is an honour to speak this morning in the Parliament of Uganda. I see many familiar faces here: PGA members whom I've met in The Hague or elsewhere around the world. Since I became President of the International Criminal Court 15 months ago, I have spoken at PGA events in the Indonesian Parliament and the European Parliament. I have participated in a PGA workshop in Kathmandu, Nepal. There, I worked side-by-side with PGA to provide facts to Nepalese decision-makers who are considering that country's accession to the Rome Statute. This past December I spoke to a gathering of MPs from across this Great Lakes region of Africa and beyond. PGA brought them together to discuss issues of peace and justice in a place that could not have been more appropriate: the National Assembly of the Democratic Republic of the Congo. Through these interactions and others, I have come to count on PGA as one of the ICC's most essential partners. I am inspired by the commitment of your members, and by the outstanding work of your dedicated staff. As we gather here in Kampala just ahead of the first Review Conference of the Rome Statute, it is my pleasure to engage with PGA once again.

The stock-taking exercise that culminates at the Review Conference next week provides an opportunity to look at how far we have come in building a system of international criminal justice. But more importantly, when the conference is over and the delegates return home, parliamentarians will take up the hard work of consolidating gains and building on the current system. Working within national legislatures and coordinating efforts through PGA, members of parliament will have opportunities to extend the promise of justice to more victims of the most heinous crimes.

The stock-taking will look at the Rome Statute system as a whole. At the heart of the Rome Statute, of course, is the ICC itself. Before looking at systemic needs, it is worth briefly looking at where the ICC's work stands today.

The Prosecutor has opened five investigations. As you know, these are in the Democratic Republic of Congo, Northern Uganda, Central African Republic, Darfur, Sudan, with a fifth just now beginning in Kenya. Three of these situations were referred to the Court by the governments themselves, the fourth by the UN Security Council, and the Prosecutor has just received approval of a Pre-Trial Chamber to open the Kenya investigation at his own initiative.

In all, our Pre-Trial Chambers have issued 13 arrest warrants. Four detainees are currently in custody and one suspect voluntarily appeared in response to a summons. The first trial – of Mr Thomas Lubanga Dyilo – began last January and is moving toward completion this year. A second, of Mr Mathieu Ngudjolo Chui and Mr Germain Katanga, began last November. This and the Lubanga trial relate to the situation in the Democratic Republic of the Congo. A third trial is now scheduled to begin in July. Mr Jean-Pierre Bemba is likewise a Congolese national, but he is accused of having committed crimes in the Central African Republic.

The Court is working as envisioned to deliver justice of the highest standard in the cases currently before it. But as important as the work of the ICC is, it is only one part of a broader Rome Statute system that remains under development.

The stock-taking exercise will examine four different aspects of this system: cooperation, complementarity, the impact of the Rome Statute on victims and affected communities, and peace and justice. While the stock-taking has been prepared by States, I am very pleased that States have been open to the Court's ideas, and that Court officials will actively participate in the various panels.

States, individually or in groups, were asked to submit tangible pledges by 14 May toward the further development of the entire system of international criminal justice. These pledges will be unveiled next week. In each area of the stock-taking, States have ample opportunities to meet urgent needs.

Cooperation remains an area of vital importance to the ICC's functioning and judicial efficiency. Cooperation from States has been generally forthcoming. The Court has identified its needs, highlighting the priorities of the arrest of suspects and agreements on relocation of witnesses and enforcement of sentences. It is now up to States to help identify their challenges in providing cooperation and assistance, and to identify actions that can be taken.

The principle of complementarity is at the heart of the Rome Statute. The ICC is a court of last resort, and national jurisdictions retain the primary responsibility to conduct genuine investigations and prosecutions of crimes under the Statute.

A first step in realizing complementarity is domestication of these crimes in national law, as Uganda has recently done. Yet fewer than half of all States Parties have adopted any implementing legislation. This is obviously a key area for action by parliamentarians. States must not only adopt legislation, but they must make sure it is adequate.

This means not only that States can investigate and prosecute crimes, but also that the independence of the judiciary is ensured, that victims and witnesses are protected and above all that the rights of the accused are guaranteed.

But the challenges go beyond just implementing legislation.

I saw an example of the needs during my trip to the DRC last December. Among my meetings in eastern Congo, I met with a local military prosecutor directly applying the Rome Statute. Already four cases have been completed.

But this military prosecutor frankly admitted that he and his team lacked the expertise to ensure proper trials. They lack basic texts on international criminal law and the jurisprudence of the ICC. Following this meeting, I sent a few legal texts to the military prosecutor's office. As you can well imagine, given the scale of the challenges in the DRC, this represents a very modest contribution indeed. Government officials and outsiders universally expressed the opinion that the prison system is in need of reform. Some observers express concerns about political interference in the judiciary. Others point to a need for the government to provide greater

protection to witnesses and court officials themselves. And all of these problems are compounded by the fragile security situation in a region that has long suffered from conflicts involving many states and factions.

The third focus of the stock-taking will examine the impact of the Rome Statute on victims and affected communities. Victims, affected communities and communities under threat of future crimes should be the primary beneficiaries of the work of the ICC and the entire Rome Statute system. I am pleased with the progress we have made. In the two trials ongoing at the ICC, victims are participating in proceedings and telling their stories in court. The Court's outreach unit, often working in remote locations, is undertaking the indispensable, underappreciated task of increasing affected populations' understanding of complex proceedings. Meanwhile the Trust Fund for Victims is providing assistance to victims of specific crimes and whole communities in Northern Uganda and the Democratic Republic of the Congo. Despite this progress, there is much work to be done in integrating victims and affected communities into international justice, and narrowing the gap between their expectations and current reality.

And finally, it is my hope that through the stock-taking panel on peace and justice, States can commit to thoughtful engagement on how peace and justice best complement each other in practice.

Although it is not formally a part of the stock-taking, States can recommit to assisting the Rome Statute achieve universal reach. I have focussed my efforts in this regard primarily on the Asia-Pacific region, with trips to Thailand, Indonesia, Nepal, Bangladesh and Laos.

PGA and other civil society organizations have been indispensable partners in this effort, as have been the United Nations, European Union, and individual States. Through just this type of collaboration, we are broadening the Rome Statute's promise of justice.

The challenges I have outlined are daunting. But pledges made for the Review Conference offer an indication of the next steps that can be taken to address them. As parliamentarians dedicated to the cause of international criminal justice, your energy and guidance will be needed. You can ensure that legislation that may be needed to fulfil pledges and further develop the Rome Statute system gains priority on busy legislative calendars. Parliamentarians can act to fill needs, even if such actions exceed pledges made by your governments.

With regard to cooperation, States can ramp-up support for arrest efforts and to enter into assistance agreements with the ICC. This includes adopting implementing legislation that would ease cooperation with the Court. If your country already has full implementing legislation, perhaps it can assist a neighbouring State that still lacks it.

States should continue to offer public and diplomatic support for the Court, and parliamentarians too have important voices domestically and abroad.

With regard to complementarity, States can assist each other in building needed will and capacity. Many countries have needs ranging from expertise on international criminal law, to courtroom management, to penal system reform. These items often fall within the scope of existing rule of law programming, but relevant information is not always available, international criminal justice issues may not be fully addressed in some programmes and there are few mechanisms for coordination. Parliamentarians may wish to introduce legislation to address these needs. Parliamentarians can also cooperate, as they do through PGA, to share information on best practices.

With regard to the affect of the Rome Statute on victims and affected communities, parliamentarians can encourage their governments to make new contributions to the Trust Fund. You could also help devote greater resources to efforts that make the ICC's work understood in affected communities, or participate directly in affected societies to discuss the Court's role and work.

And finally, to help the Rome Statute achieve universality, we can all act to build on existing partnerships and networks, like PGA. States and individual parliamentarians among you can take advantage of particular relationships with non-States Parties and their legislators to further expand the Statute's reach.

Some may ask whether we can really expect this Review Conference to make a difference. They may ask what value there is in trying to be so ambitious. We should recall that many raised similar questions in 1998, when representatives of 160 States convened in Rome at the behest of the General Assembly. Sceptics said that parochial interests would prevail. They said States would never be able to agree on the creation of a permanent international criminal court. But when diplomats emerged from their negotiations, they had not only created a permanent Court; they had laid the foundations for an entire, comprehensive system of international criminal justice.

That was just the beginning. Much more needs to be done. The Review Conference can reinvigorate the movement that led to adoption of the Statute. States must tap the same commitment and sense of audacity that prevailed in Rome. This is true for the coming two weeks of the conference itself, and even more so when it ends and the task turns to implementation of specific measures. Here in Kampala and afterwards back at home, this is the time to escalate the fight against impunity.

Thank you. I look forward to hearing your thoughts and answering your questions.