



**Cour
Pénale
Internationale**
**International
Criminal
Court**

Le Bureau du Procureur
The Office of the Prosecutor

Mr Karim A.A. Khan QC
Prosecutor of the International Criminal Court

Twentieth Session of the Assembly of States Parties

Opening plenary

Remarks

Madam President of the Assembly, Silvia Fernández de Gurmendi,
Mr President Hofmanski,
Dear Mr Registrar,
Madam Chair of the Board of the Trust Fund for Victims,
Excellencies,
Distinguished delegates,

1. It is an immense privilege and honour to address you on this very important occasion, my first address as Prosecutor of the International Criminal Court (“ICC” or the “Court”). Since I commenced my term as Prosecutor on the 16th of June 2021, there has been a great deal of activity for which I commend every member of the Office of the Prosecutor (“OTP” or the “Office”) for playing their part.
2. I will also touch upon the wonderful support I have had from so many at the end, including the Principals of the Court that I have the honour of sitting alongside at this table; wonderful engagement with many of you, representatives of States Parties, and also constructive engagement with non-States Parties and civil society.
3. We have started a process that has a ways to go. But it is a start that will require the refocusing of the energy and skills of the Office to help ensure that we make a greater impact. In this regard, I am tremendously grateful for the work of the Independent Expert Review (“IER”). It put up a mirror to the Court at a very important time. And many of those recommendations definitely deserve to be embraced. I will do so in full conformity with my article 42 responsibilities for the management and organisation of the Office.
4. The simple truth, as the IER report discloses, is that the time for change is ripe. It is now. As we approach the 20th year of the coming into force of the Rome Statute, we need to build upon what works, the achievements that undoubtedly have been made, but with a constructive but critical self-reflection and degree of introspection that we need to do better.
5. Because all of us in this room and those distinguished members watching online, civil society in the field, States Parties or non-States Parties, have to face an ugly reality that for far too many individuals, there is a lack of protection, they suffer, and there are these islands of impunity that cannot be tolerated in this 21st century.
6. I will make every effort to bring about change. The staff that I have the honour of leading work tremendously hard. We deal with expectations that perhaps also need to be moderated based upon an understanding of what international criminal justice can do and what it cannot do, what the Court has, what resources are given to me as Prosecutor to do my job and to focus what we have in an intelligent way so that we can make a difference.

7. Before I was elected – and I stated it to the distinguished delegates and States Parties in roundtables – I was convinced that this Office should be the most exciting, the most vibrant and the most wonderful place in the world to work. Yet as the IER report discloses, it is not.
8. And this is not apocryphal, as I walk the corridors of my Office, as I have had my weekly open door policy with staff, I can see that for far too many of them, their enjoyment depends upon who they work for, which team they are in. There are changes that we have to bring about and to this end, I am very grateful for the advice that I was so generously given both by the Registrar and the Head of the Independent Oversight Mechanism, and for the discussions I have had with all of the Court’s Principals.
9. I have appointed a Workplace Panel of experts outside of the line of reporting that staff can go to safely; it’s a safe space with full confidence so that any issues of harassment or bullying, sexism or racism can be properly put forward. I am, hence, given some granularity further to the IER report. One commitment I make without hesitation is that I will not speak the language of zero tolerance and fail to implement it. I think that is the very least that is required of me.
10. On Friday of this week, we have a Workplace Panel side-event chaired by Mr Ibrahim Pam in which all the panel members will be speaking along with my newly appointed Special Adviser on Workplace Culture, Ms Purna Sen. I do hope that some of the distinguished members in this room and those online would have time to watch it.
11. I have also appointed about 20 Special Advisers on new areas such as gender persecution, slavery crimes, Islamic law, knowledge transfer, and this week, I will announce the appointment of a new Special Adviser from Japan on mutual legal assistance.
12. One other thing is clear, and that is that gender parity, gender equality and proper and fair geographical distribution is not a tick box exercise; these are essentially linked, particularly in the work that we all do, to the delivery of the mandate of the Court.
13. It is also important to understand the regions in which we operate. Hearing the perspectives of a variety of individuals is critically important to understand the intersectionality when it comes to the crimes that are targeting civilians and when we hear the stories of victims and survivors.
14. Before I was elected and in the first six months of this current mandate, I have repeated and emphasised, and forgive me for underscoring it again, that complementarity is a key aspect, a key bedrock foundation of the Rome Statute system.
15. My own view, subject to witness security, logistics, finance and, of course, the decisions of the independent judges of the Court, is that the ICC should not only be a court of last resort,

but The Hague should be the city of last resort, and we should look at concrete ways in which we can build partnerships to bring the Court closer to the affected communities, and I think and I am convinced that the impact would be greater if we do that.

16. My missions to Colombia and Venezuela may provide an insight into new models that I believe are fully consistent with the Rome Statute and which are capable of bringing about real dividends. I recently went to Bogota in Colombia, and I announced the closing of a preliminary examination that had been opened for 17 years.
17. I did so because a proper assessment of what Colombia had put in place, the 120 million dollars a year it was providing to the Special Jurisdiction for Peace and the Justice and Peace Tribunal could not disclose a lack of genuineness. There is no evidence to find unwillingness and inability.
18. Realising the function of preliminary examinations as a filtering process, I was compelled to close. But with the wonderful support of the Colombian Ambassador in this room, and with the Colombian Government, we started what I think is a new paradigm of engagement, indeed, constructive engagement outside of the preliminary examination process. We have an agreement that the President of Colombia and myself signed when I was in Bogota.
19. This is something that I would urge everybody to support. It would be a way of securing the independence of the Special Jurisdiction for Peace, to ensure that there is no political interference with it, and that it is properly funded, and that it is a way to work closer with States instead of unnecessarily diluting our efforts in a way that would otherwise be quite possible.
20. I was delighted to accept an invitation by the President to visit Colombia again next year and I hope we will have ever closer relationships, supporting the Special Jurisdiction for Peace and for the efforts Colombia is making to deal with impunity, to deal with the crimes and the suffering that have befallen them for far too long.
21. This is completely consistent with what I have said repeatedly, that is, the forum is not important. What is important is that there should be no deserts of impunity. We need to water the ground and create oases of accountability wherever possible.
22. Similarly, I was delighted to visit the Bolivarian Republic of Venezuela and I am very grateful for the interaction with the Ambassador of Venezuela here in The Hague. I had very good meetings with the President of Venezuela and with other senior ranking members of the Government. In the presence of the President and senior members of the Government, I announced the opening of an investigation.

23. I do think it is important to underline what I emphasised when I was in Caracas: preliminary examinations are a filtering process. When investigations are opened, there are no pre-ordained targets. There cannot be. There is no preconceived outcome. The job of any independent Prosecutor and the job of my Office is to follow the evidence and see what actually is the reality, see if Rome Statute crimes are committed. And if they are committed, to see whether evidence discloses who is responsible. But this Office is not in the regime change business. We are simply trying to address impunity and investigate independently.
24. What was important in Venezuela, and is a first in fact, was that at the same moment I opened an investigation, I signed with the President of the Bolivarian Republic of Venezuela an agreement, which shows that in parallel with my Office's investigations, we can have cooperation based on complementarity, and I look forward to constructive and sustained dialogue with Venezuela to address impunity also through national proceedings. I look forward to going to Venezuela next year, and to further that interaction.
25. These two examples – Venezuela and Colombia – demonstrate a new approach perhaps to preliminary examinations. I have started a comprehensive review looking at preliminary examinations, at the Office's policies, and investigations seeking to use the finite resources of the Office more effectively and to build cases that will survive challenges in the courtroom.
26. I hope to announce certain decisions on preliminary examinations before the end of the year and in relation to all outstanding matters, come to those determinations by the end of next year. Of course, new preliminary examinations may be opened, as well as new investigations whether through referrals by the United Nations Security Council, State referrals or article 15 *proprio motu* investigations. But for all of these matters, the basic function of preliminary examinations must mean that they do not take any longer than they are required.
27. I will announce in relation to new investigations, certain situations where I will not open new cases and I will not conduct new investigations. I think this is in line with both the IER report and the Office's Policy Papers on Case Selection and Prioritisation as well as Situation completion.
28. I will continue to solidify ongoing investigations. I gave my report recently on the Situation in Libya to the Security Council where I emphasised that all things being equal, I will prioritise referrals by the Council. I demonstrated my adherence to this when in August, I undertook a mission to Sudan where we succeeded to enter into a Memorandum of Understanding with the Government of Sudan, and also explored and agreed to have an ICC field office opened in Khartoum. I look forward to members of my Office, subject to the security situation permitting and the issuance of visas, going to Khartoum again to advance our efforts in this situation.

29. Allow me to highlight another point. When we look at the Sahara region, for instance, we can see the spread of ISIS. This is another area of concern to the Office that we are reviewing. In relation to Afghanistan, I already made a decision based upon the evidence that the worst crimes in terms of gravity and scale and extent seem to be committed by the so-called Islamic State Khorasan and also the Taliban. I have prioritised this and have asked the Court's judges for authorisation to resume those investigations.
30. I want the esteemed delegates to recall that in 2014, my predecessor, Ms Fatou Bensouda told the Security Council that she would hibernate the Darfur situation because of overstretched resources and that she was shifting those resources to other cases. I have not sought to hibernate. But I have sought in a very transparent way to explain where I would seek to investigate, what I will seek to prioritise and what I will seek to deprioritise.
31. We have to; every national prosecutor has resource issues. We have to use ours wisely but I am a great believer in the wisdom of Voltaire, and as he said: *perfect very frequently is the enemy of the good* and this is also something a prosecutor must bear in mind.
32. The President has discussed the progress in court. In terms of the cases, the Court is busier than ever in the *Yekatom and Ngaïssona* and *Said* cases. We have dealt with 52 witnesses in the *Al Hassan* trial where we are progressing. The Deputy Prosecutor has been overseeing the imminent commencement of an article 70 case.
33. Regionally, engagement means to move more closely and I look forward to regional cooperation with Asia, with Latin America and also with the African Union. I have met President Tshisekedi, President of the African Union ("AU") and President Macky Sall, the incoming President and I look forward to meeting President Faki of the AU Commission soon in anticipation of addressing the AU Heads of State Summit in Addis Ababa in February.
34. A lot more can be said but I was told I could have 15 minutes but it seems I got that wrong, it was 10 minutes. So can I just end by thanking Madame President for your support, President Hofmanski, the Registrar, Peter Levis, the Deputy Prosecutor, James Stewart, and really all of you for the support and the warm welcome in this initial period.
35. I would like to also thank the outgoing Chair of the Trust Fund for Victims Board of Directors, Ms Mama Doumbia; I wish her the very best, and the work you do and through your Board is something we should never lose sight of and we should all support because it is immensely impactful for individuals most affected by the commission of Rome Statute crimes.
36. My final word has to be this: I will not shirk from my responsibilities. I will take the necessary tough decisions in terms of the quality control of the Office and where we place

our focus. But I do ask the respected members of this Assembly of States Parties, the guardians of the Rome Statute system, to not shirk your responsibilities.

37. The Court put forward a budget request. The Committee on Budget and Finance (“CBF”) has recommended only half of the additional resources we requested, and that was a very well thought out budget proposal from the Court. I do ask that the respected members of the Assembly of States Parties work with the budget facilitator and at the very least meet what the CBF has recommended, and I think actually we do need more to harness technology.

38. If we work together, if we fulfil the promise of the Rome Statute, we can do work that will outlast us, that will outlive us, and could make a very meaningful difference to so many who are suffering so much as we sit here, in this room in the Hague. Thank you so much. |
OTP