

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Special Address

CARICOM Seminar on the Rome Statute of the International Criminal Court

*Hyatt Regency Hotel, Port-of-Spain, Trinidad and Tobago
16 May 2011*

Excellencies, Ladies and Gentlemen,

Following my earlier remarks about the operation of the ICC, I will now discuss the participation of CARICOM countries in the Rome Statute system.

First of all, I would like to take this opportunity to congratulate the Caribbean countries for their commitment to the ICC.

This is where it all started, with the proposal of Trinidad and Tobago in the General Assembly of the United Nations for the establishment of an international criminal court. The ICC was eventually set up with a jurisdiction very different from that proposed by Prime Minister Robinson in 1989, but that did not stop Trinidad and Tobago from ratifying the Rome Statute as only the second country in the whole world. Belize was not far behind as number eight.

Over the years, many other countries from this region have followed, the latest ones to join being Suriname in 2008, and St. Lucia last year.

While this already makes CARICOM one of the best represented regional groups in the ICC, I would of course be delighted to see the remaining four member states – the Bahamas, Grenada, Haiti and Jamaica – ratify or accede to the Rome Statute.

By doing so, they would join a global movement of States dedicated to peace, justice, the rule of law and the protection of the most fundamental human rights.

Joining the ICC, in my view, should not be a question of whether there is any actual fear of Rome Statute crimes occurring in your country or region.

By its very nature the ICC is a global body with universal goals. It embodies the resolve of the international community as a whole to put an end to impunity for crimes that are so brutal that they shock the conscience of humanity.

All nations and every region can make an identical claim to the values enshrined in the Rome Statute. The ICC is a Caribbean court just as much as it is Asian, European or African. Every part of the world has its own experiences of injustice and suffering that remind us how important it is to strive for peace, for justice, and the human dignity of all persons.

These matters have been close to me since my early childhood. My own grandfather was severely tortured because of his participation in the Korean movement for independence. When I was nine years old, war broke out in my home country. I was too young to be mobilised, but old enough to realise the horrors of war.

For three months, during the battle for Seoul city, my family was hiding in a hot and humid underground bunker. It was my task to emerge from the bunker to find food and to bring it back to the bunker. To do this, I had to walk about 16 kilometres every day. During these trips, I passed hundreds of dead bodies, lying on the streets. To this day, I can precisely remember the horrible stench of the decomposing corpses in those hot summer months.

In my current capacity as President of the Court, I had an opportunity to visit affected communities in Uganda and the Democratic Republic of the Congo as part of ICC's outreach activities. I met with former child soldiers and other victims that were now rebuilding their lives. Some of the survivors were missing limbs, or their ears or nose or lips which had been intentionally cut off.

While I was saddened and shocked by the brutality that these people had suffered, I was also touched by their hope for justice, and impressed by their determination to rebuild their lives. I felt honoured to be part of the international institution at the leading edge of a global movement to end impunity for such atrocities.

Indeed, the ICC is gaining momentum and becoming a major global institution, with 114 countries that have now ratified the Rome Statute, and others expected to join soon. Malaysia has adopted the formal decision to accede to the Rome Statute, and in the Philippines the President transmitted the instrument of ratification to the Senate, which will hopefully approve it within a few months. Also other countries such as Tunisia and Egypt have announced their intention to join the Rome Statute along with other major treaties for the protection of human rights. Let me use this opportunity to thank key civil society organizations such as Parliamentarians for Global Action, and the Coalition for the International Criminal Court, for their crucial contribution to these developments.

Excellencies, Ladies and Gentlemen,

I am aware that some countries in your region may in the past have had reservations about joining the Rome Statute due to the hostility of the Bush administration towards the ICC.

Let me assure you in clearest terms that the United States has completely changed its approach to the ICC. Senior Obama administration officials have repeatedly assured me that there will not be any retribution from the US for any country seeking to join the Rome Statute.

And it is not only the US that has revised its position towards the ICC. Three months ago, when the Security Council unanimously referred the situation in Libya to the ICC, also China, Russia, Lebanon and India voted in favour!

Excellencies, Ladies and gentlemen,

As the ICC develops, and faces new diplomatic and judicial challenges, the support and assistance of States Parties remains crucial to our success. Affirming your commitment to end impunity does not stop at the ratification of the Rome Statute.

An important form of support to the ICC that I would particularly like to stress today is **ratification of the Agreement on the Privileges and Immunities** of the ICC, known by the acronym APIC. So far, only four CARICOM states have ratified this treaty and I strongly urge the others to do so as soon as possible.

Please have in mind that since the ICC is an independent international organisation, it is not covered for instance by the Convention on the Privileges and Immunities of the United Nations. Therefore it is very important that all States Parties ratify APIC in order to formally recognize the status of the ICC's officials and property, the ICC's rights to confidential communications and so forth. Your assistance in advancing this matter in your capitals would be much appreciated.

Another important form of a State Party's full participation in the Rome Statute system is the adoption of adequate **implementing legislation**. This matter has two aspects.

First, the Rome Statute requires every State Party to have national procedures in place for all obligatory forms of cooperation with the ICC. This means, for example, the execution of arrest warrants, freeze of assets or other requests by the Court.

You never know when this might suddenly become very relevant. Imagine, for instance, that it unexpectedly turns out that a person under an ICC arrest warrant may be on your territory and could be leaving any moment. Having already adopted clear procedures for dealing with a situation like that could make all the difference for your State's ability to provide swift and effective cooperation to the ICC before the opportunity is lost.

The **second** aspect of implementing legislation is the domestication of the Rome Statute crimes. As emphasised at the Review Conference in Kampala last year, the ICC is not a substitute for national justice systems; States retain the primary responsibility to prosecute ICC crimes and to do so, they need to be properly incorporated in the national criminal codes.

It is of some concern that less than half of the 114 States Parties have adopted adequate implementing legislation so far. I am delighted that one of the session's tomorrow is dedicated to this matter and I wish to thank the Commonwealth Secretariat for the assistance it provides to member states in this respect.

Excellencies, ladies and gentlemen,

As the ICC's activities are moving forward, new challenges appear in the daily work of the Court. One of the most pressing operational needs is the **protection of witnesses** to safeguard them from threats of violence because of their testimony. In the case of particularly grave threats to the safety of a witness, he or she has to be relocated to a third country to protect them from any risk of retribution due to their willingness to implicate perpetrators in court.

The ICC is very grateful to those States that have entered into an arrangement with the Court, agreeing to accept relocated witnesses on their territory. So far, however, no such agreements have been concluded with any CARICOM states, and I appeal to your governments to consider extending this invaluable form of support to the ICC.

Some States may hesitate due to the costs involved in witness relocation programmes. But this does not have to be an obstacle. The Court has recently established a Trust Fund for Relocation of witnesses. As a result, States can now enter into relocation agreements on a cost-neutral basis.

We are also concluding **agreements with States Parties on the enforcement of sentences**. The end of our first trials is approaching, and it is important to have sufficient options in place ahead of potential first convictions.

I am happy to report that Colombia will tomorrow sign an agreement on the enforcement of sentences as the seventh State Party overall and the first one from the Latin American and Caribbean region to do so. I would be delighted if some of your States were willing to follow this example, and I kindly ask you to raise the matter in your capitals.

Excellencies, Ladies and gentlemen,

While I cannot comment, and do not have an opinion on the substance of the proposal made by Trinidad and Tobago and Belize to include the crime of drug trafficking in the Rome Statute, I commend your efforts to contribute to the shaping of the development and future of our joint institution, the ICC.

Indeed, I encourage and welcome the active participation of all CARICOM countries in the work of the Assembly of States Parties. The Assembly is responsible for a wide range of important decisions, including the election of judges and the Prosecutor, both of which are up in December this year.

Finally, let me address the **relationship between the ICC and the Caribbean Community**. The ICC holds in great value the support, assistance and cooperation the Court receives from many intergovernmental and regional organizations. One of them is the Organisation of American States, and I would like to take this opportunity to thank all the CARICOM states for repeatedly expressing their support to the ICC at OAS meetings and summits.

Last month, I was very glad to sign a Framework Cooperation Arrangement with the OAS Secretary-General in Washington. This document provides a formal basis for a friendly and cooperative relationship between the two organizations, while respecting each party's respective mandates.

In light of this strong connection that the ICC has with the OAS and its General Secretariat, I would be very pleased to see similar developments in our relationship with CARICOM. I would be delighted if the ICC were to be invited to any appropriate event of the CARICOM Secretariat as a first step for engaging in such talks.

While it is a pity that the Secretariat headquarters could not be represented at this Seminar, I trust that you can pass on these thoughts and messages to the relevant authorities in charge of such matters.

Before concluding, I wish to apologise that I cannot stay for the remainder of the Seminar, as I am leaving for Bogota in a few hours' time. I wish you very fruitful discussions and I look forward to seeing the results that will emerge from them.

Thank you for your attention.