

**Cour
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**International
Criminal
Court**

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

Keynote remarks

ASP side event “Plan of Action: universality of the Rome Statute and
implementing legislation: developments and resources”

New York, United States

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Excellencies, Ladies and Gentlemen,

I would like to thank Romania for convening, together with the Secretariat of the Assembly, this timely side event on a topic very close to my heart – universality and full implementation of the Rome Statute.

I will focus my remarks mainly on universality; first, because this has been one of my main priorities of my term as President of the ICC, and second, because there are several highly knowledgeable panellists who will, no doubt, speak in detail about implementation of the Rome Statute.

Progress on the universality front has been truly remarkable this year. Six new states have ratified or acceded to the Rome Statute – more than during any single year since 2002!

However, the fact that more than 70 States remain outside the system of the Rome Statute means that we cannot be complacent about this progress. We need to step up our efforts in order to make a real leap toward universality of the Rome Statute.

In order to do this, we need some fresh thinking. The Plan of Action adopted by the ASP five years ago certainly was a step in the right direction, but I am afraid it has largely remained a plan on paper, at least whereas universality is concerned.

I believe it is time to devise a more robust, a more strategic approach to pursue universality of the Rome Statute.

This was one of the conclusions of the high-level retreat on the future of the ICC hosted by Liechtenstein in October this year, and I would warmly recommend that you have a look at the Action Points from the retreat, which have been circulated as a public ASP document.¹

At the moment, it frankly seems to me that civil society on the whole is more active than States Parties in promoting universality. I have had tremendous cooperation with the PGA as well as the CICC in this respect, and I wish to use this opportunity to pay tribute to their crucial work. Dr. David Donat Cattin in particular has been an irreplaceable partner for my office in discussing approaches to different regions.

Together with the European Union, we have been initiating more systematic exchange of information on universality efforts, but this is not enough.

In my view, the States Parties and the Assembly must assume a much more active part in the quest for universality. The Plan of Action already directs states to raise Rome Statute ratification in bilateral and multilateral contexts, but what we need is a more systematic, analytical and dynamic approach.

¹ ICC-ASP-10-INF.3

The President of the ASP could play a pivotal role by instigating and coordinating efforts by individual States Parties and regional groups. In this respect, the full-time engagement of the new ASP President comes at an excellent time, and I look forward to working with President Intelmann on this crucial matter.

Excellencies, Ladies and Gentlemen,

We have to build on the existing momentum in regions that are opening up to the emerging system of international criminal justice.

The so-called Arab Spring has created new opportunities to increase the relevance of the Rome Statute in North Africa and the Middle East, as illustrated by Tunisia's prompt accession following the regime change. Regional conferences on the ICC were held in Qatar and Tunisia earlier this year, as another sign of the region's increased interest in engaging with the Court and possibly joining the system of the Rome Statute.

In the Asia-Pacific, accessions/ratifications by Bangladesh, the Philippines, the Maldives and Vanuatu, hopefully soon followed by Malaysia, have created another important momentum that should be utilised to encourage other South or Southeast Asian states to take concrete steps toward accession/ratification. More efforts should also be directed to Central Asia, which is likewise underrepresented.

How do we make headway toward new ratifications? Clearly, joining a treaty is a sovereign decision for each state to make. But we can initiate dialogue about the Rome Statute, we can increase awareness and we can facilitate informed discussions. This is particularly important at the highest levels, with senior government officials, parliamentarians, and chief judges.

In my experience, the sheer lack of knowledge is one of the biggest obstacles to accession in many countries. Misconceptions are still persistent, and merely clarifying the principle of complementarity and the non-retroactive effect of ratification may often significantly clear the path for proper consideration of joining the ICC.

It is also important to highlight that ratification brings several benefits for a country – enhanced legal protection for its population and territory, international recognition for commitment to peace and the rule of law, and the possibility to participate in the work of the ICC along with the growing majority of the world's states!

Excellencies, Ladies and Gentlemen,

I often say that ratification of the Rome Statute is only the beginning. Key points I frequently raise with new States Parties include ratification of the Agreement on Privileges and Immunities, and enactment of national implementing legislation, both for effective cooperation with the ICC as well as for national prosecution of Rome Statute crimes.

While the obstacles in terms of ratification or accession to the Rome Statute are often, although not exclusively, due to lack of political will or simply the lack of awareness of the Rome Statute system, the obstacles in terms of implementing legislation are more often resource-related. Many States lack the expertise and the resources to make the Rome Statute fully complementary to their national legal systems.

I am glad that technical assistance for implementation – as well as for ratification – of the Rome Statute is increasingly available, and I am delighted to see two key organisations in this respect, the ICRC and the Commonwealth Secretariat, represented on the panel. Let me also note the fact that three of this year's new States Parties are members of the Commonwealth!²

Excellencies, Ladies and Gentlemen,

120 States Parties is an incredible achievement, but I remain mindful that many of the world's largest and most populous States – notably China, India, Russia and the United States – remain outside the ICC. Indeed, our progress towards universality is not just measured by how many states participate in the ICC, but also, by how many individuals the Rome Statute protects.

It was encouraging to note the positive votes of the United States, Russia, China and India on the Security Council's referral of the Libya situation to the ICC in February this year. These countries may not be actively considering ratification of the Rome Statute today, but I do believe that day will come, too.

Next year, we will celebrate the 10th anniversary of the ICC and the Rome Statute system. This will be a unique opportunity for all actors – the Court, the ASP, States Parties and civil society alike – to promote universality of the Rome Statute, as well as greater implementing legislation efforts. We must call on the rest of the world to join us.

I would like to propose a new ambitious target of welcoming ten new States Parties in the coming year! Ten would be an appropriate number to mark the 10th anniversary. Ten would also be symbolic because in 2002, the Rome Statute came into force by simultaneous ratification of ten States on 11 April.

If ten States brought the Rome Statute system to life ten years ago, let us aim for ten new States to bring this remarkable system of international criminal justice into its next decade!

Thank you.

² Grenada, Maldives and Vanuatu