



17th Assembly of States Parties to the Rome Statute
General Debate
Statement by Chief Charles Taku, President of the
International Criminal Court Bar Association

Your Excellency, the President of the Assembly of States Parties,
Your Excellencies,
Distinguished attendees,

It is my privilege to address you on behalf of the International Criminal Court Bar Association. The ICCBA, as the collective voice for independent counsel and support staff representing victims, defendants and other actors before the ICC, remains steadfastly committed to working with all stakeholders to expand and strengthen the global system of justice for international crimes.

The ICCBA has submitted a comprehensive report to the Bureau of the ASP that details impressive outcomes over the last year, and justifies the claim of the ICCBA as a reliable partner for the ASP and the Court in pursuing the Rome Statute's universal goals.

Among other initiatives, the ICCBA played an active role in the process of electing the ICC Registrar by engaging candidates on issues important to our membership. A report¹ summarizing the information received from participating candidates was produced as a resource to assist the Judges in their selection.

The election of new principals to the ICC Presidency and Registry has re-vitalized the ICCBA and Court's engagement on issues of long-standing concern. At the invitation of the ICC President, His Excellency Judge Eboe-Osuji, the ICCBA fully participated in the 20th anniversary celebrations of the Rome Statute. The ICCBA appreciates the Registrar, Mr.

¹ A copy of the 'Report on the ICCBA Process with Candidates for the Position of ICC Registrar' (March 2018), is available at: https://docs.wixstatic.com/ugd/ff5a5e_ce789b505f6c4224abd23c3f0e8b5975.pdf.

Peter Lewis', leadership and engagement on a number of issues, including a crucial aspect of counsel and support staff's privileges and immunities within the Host State. The ICCBA looks forward to the continuation of this spirit of cooperation.

The ICCBA organized in-depth training programs and lectures at the Court attended by its membership and Court staff. The ICCBA also led a two-day training for human rights lawyers in Tbilisi, Georgia on the representation of clients before the ICC. The ICCBA Victims Committee, with the excellent assistance of the Court's audiovisual department, also produced a series of lectures on victim participation and representation that is available to the public on the ICCBA's website.

In fulfillment of its universal objectives, the ICCBA entered cooperation agreements with the African Bar and Federation of European Bars, and will sign a similar agreement with the International Association of Lawyers. The ICCBA received a delegation of the Mexican Bar and held discussions with a delegation of Palestinian lawyers. The ICCBA has been invited by the Iranian Bar Associations Union to organize a conference in Tehran. I attended a training conference organized by the African Court on Human and Peoples' Rights, and was received by the President and Registrar to discuss possibilities for cooperation between the African Court and the ICCBA.

Through these efforts and in view of its global membership, the ICCBA is well-placed to support the Court and the ASP in the critical area of complementarity through judicial-sector capacity building and participating in outreach programs. Constructive dialogue and collaboration in the area of complementarity would help strengthen the system of justice envisioned by the Rome Statute.

The ICCBA is now firmly established as the primary representative body of counsel and support staff before the Court. A key objective of the ICCBA is mandatory membership of the Association for all List Counsel. Mandatory membership would secure the independence of the ICCBA and its capacity to maintain a high level of professional competence and high ethical standards among counsel and support staff. The ICCBA requests Your Excellencies to support this proposal.

On the critical issues of ethics, professional responsibility, and the right to a safe working environment, the ICCBA has taken strong and clear action. In March 2018, the ICCBA issued a Declaration² stating that acts of harassment and sexual harassment breach counsels' obligations under the Code of Professional Conduct. In November this year, the ICCBA issued a guidance document³ to its membership addressing prohibited acts of harassment, sexual harassment, bullying and retaliation, and adopted a Directive establishing the ICCBA Hotline and Complaint Mechanism for Harassment and Sexual Harassment.⁴ The ICCBA is additionally preparing proposed amendments to the Code of Conduct to specifically define harassment, sexual harassment and retaliation as prohibited conduct.

Your Excellencies, the ICCBA is committed to ensuring that all counsel and support staff uphold the highest standards of ethics and professional conduct. The ICCBA believes that legal professionals who have the honor of representing victims and defendants before the ICC must not be beyond reproach for their own conduct should it fall below the high standards rightly demanded of officers of the court.

Impunity has no place at the ICC.

It is also on the basis of this strong belief that the ICCBA, in November 2017, issued a statement⁵ calling upon the ASP to initiate a thorough, effective and independent investigation into the serious allegations raised in public reports regarding the conduct of the former ICC Prosecutor. During the 16th session of the ASP, my venerable predecessor, Karim Khan QC, while emphasizing our unwavering commitment to the presumption of innocence, reiterated the ICCBA's call for the establishment of an independent outside mechanism to investigate these claims. I repeat our call for the ASP to urgently consider what steps should be taken in this regard.

The ICCBA also takes note of the several judgments issued against the Court by the Administrative Tribunal of the International Labour Organization in connection with the *ReVision* process. The impact on the Court's budget is unfortunate, as is the harm caused to former staff members of the ICC and to the Court's institutional integrity. Your Excellencies,

² A copy of the Declaration is available at:

https://docs.wixstatic.com/ugd/ff5a5e_d2d6b8bba4ab4f1ab1a28f536401ecb2.pdf

³ A copy of the Guidance Document is available at:

<https://docs.zoho.com/file/awbm16583b5b7ffe54c2d86dd1b20d1bffa39>

⁴ A copy of the Directive is available at:

<https://docs.zoho.com/file/awbm19b259529ee2e4573888366388e12b214>

⁵ A copy of the Statement is available at:

https://docs.wixstatic.com/ugd/ff5a5e_4a0ed30ace0441a2bbdc1104e229f518.pdf

the ICCBA respectfully calls upon the ASP to consider the establishment of an effective and independent inquiry into the *ReVision* program to properly and transparently assess why and how such grave and consequential legal and policy decisions were taken, and to ensure that such missteps are not repeated.

In the furtherance of the goal of a strong and effective ICC, the ICCBA also fully supports the budget requests made by the Organs of the Court. These requests are well justified and urgent in view of the number, diversity and complexity of the Situations before the Court.

A core component of a strong, effective and just ICC is a properly resourced and administered legal aid system. The changes implemented under the 2012 revision to the legal aid policy have resulted in an under funded and inefficient legal aid framework. Your Excellencies, the ICCBA strongly implores the Assembly not to constrain the ongoing review of the legal aid system by imposing an arbitrary budgetary ‘envelope’. This approach undermines a thorough, objective and fact-based evaluation of the level of resources that are required to provide a fair, effective, efficient and transparent legal aid system, and one that properly respects the equality of arms principle.

The ICCBA appreciates the efforts of the Registrar to reform the legal aid system and pledges to continue working with the Court in a constructive and diligent manner to develop proposals for a properly funded, fair, efficiently administered, and effective legal aid system that is worthy of the high quality of justice demanded by the Rome Statute. Such a system must honor and make effective the right of victims to be represented by counsel of their choice. It must also: (i) rectify the significant and unjustifiable disparity in compensation between Prosecution staff and Defence and Victims teams; (ii) establish, in coordination with the Bar, a framework that better preserves fair working conditions for support staff – who are overwhelmingly female; (iii) and provide adequate resources for investigations, and for consultation with victims.

Your Excellencies, the Bar pledges to continue to be a genuine, principled and pragmatic partner for the ASP and the Court on this issue, and all on issues relevant to the Rome Statute project.

Thank you, Your Excellencies, for your kind attention.