

## **Mr. Philippe Kirsch\***

I should like to thank the Assembly for having organized these celebrations. I would also convey my thanks to the United Nations for having kindly placed these premises at our disposal today; this very same building where the Republic of Trinidad and Tobago, on the initiative of Arthur Robinson, proposed to the General Assembly the creation of an international criminal court. Since then, our two institutions have worked closely together, and that collaboration is symbolized by our presence today at United Nations headquarters to commemorate the creation of the International Criminal Court.

We all have reason to celebrate this tenth anniversary of the adoption of the Rome Statute. For the Organization, today represents the culmination of fifty years of efforts to establish a permanent criminal court. For the States, it represents a remarkable achievement on the part of international diplomacy. For non-government organizations, who campaigned for the creation of this court, today bears witness to the ability of civil society to mobilize political forces at the highest level. For victims of the most serious crimes, today enshrines their right to justice. For all of us, today marks a turning point in the struggle against impunity for the gravest crimes – crimes which touch the entire international community.

The adoption of the Rome Statute was a historic moment. The creation of an International Criminal Court had been on the agenda of the United Nations since the nineteen-forties. But, because of the Cold War, it took fifty years to achieve. However, the Court was as necessary then as it is today. Events throughout the world have demonstrated time and time again the disastrous consequences of allowing genocide, crimes against humanity and war crimes to go unpunished.

In the absence of an effective mechanism enabling the perpetrators of such crimes to be brought to justice and punished, those individuals have continued to act without fear of consequences, and their victims have been deprived of their right to justice. Entire regions have been destabilized, and societies emerging from conflict have experienced the greatest difficulties in achieving reconciliation.

In the face of the inability of existing political institutions to solve such problems, a different kind of institution was needed – an institution before which the perpetrators of the worst kinds of crimes would be called upon to answer for their acts. It had to be an institution of global reach, enjoying the broad support of the international community. More importantly still, every act of that institution had to reflect its strict respect for the rule of law.

Despite the political obstacles facing it at the time, the international community never lost hope or abandoned its efforts: States, the United Nations and civil society continued to urge the creation of an international criminal court. On 17 July 1998, with the adoption of the Rome Statute, they achieved their aim.

Ten years after Rome, the International Criminal Court is a fully-functioning reality. With the accession of Suriname, 107 States have ratified or acceded to the Rome Statute. Four situations have been referred to the Court. The Prosecutor is conducting investigations and has initiated cases in each situation. The judges have issued twelve warrants of arrest. States have surrendered four suspects to the Court. Victims are participating in proceedings. The Trust Fund for Victims, governed by five eminent persons and chaired by Madame Simone Veil, has started its first projects.

Yet, in many ways, we are still at the beginning. We have only started to realize the potential of the International Criminal Court. The Court and the entire Rome Statute system will develop further in the coming years. Whatever the future brings, the role of the Court,

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like the Court itself, is permanent. Its enduring mandate is to conduct fair, independent and impartial investigations and judicial proceedings in strict accordance with the Rome Statute. Over time the Court will establish a body of jurisprudence, resolving questions left open in the Rome Statute and thereby increasing the efficiency of proceedings. It will continue to give effect to the rights of victims to participate in proceedings.

In due course it will address questions of reparations to victims. It will uphold the principle of complementarity. It will protect victims and witnesses in conflict situations. And of course at all times it will continue to ensure the fullest respect for the rights of the accused.

The Court is determined to carry out these functions to the highest standards. But its ultimate success depends also on those who created it and who determined its mandate and its limitations.

First, more needs to be done to achieve universal ratification of the Rome Statute for the Court to have the truly global coverage envisioned by its founders.

Second, the operational cooperation of States and international organizations will become even more important, in particular in arresting suspects, protecting witnesses and enforcing sentences. States Parties are obligated to comply with the requests of the Court, but all States and organizations can assist its work. In this context, I thank the Secretary-General for his personal commitment to the Court and for the support of the United Nations. I would like also to recognize the contributions during their tenures by two officials who will leave their respective posts, Mr. Nicolas Michel, Under-Secretary-General for Legal Affairs, and Mr. Jean-Marie Guéhenno, Under-Secretary-General for Peacekeeping.

Third, diplomatic and public support will increasingly be needed. Each statement of support for the Court – by States, by NGOs, by the General Assembly, by the Security Council – helps to promote cooperation with the Court and compliance with judicial decisions. The more difficult the circumstances, the more important the support.

Fourth and most fundamentally, states, international organizations and civil society must continue to respect, to uphold and to defend the Court's independent, judicial mandate. The effectiveness of the International Criminal Court depends on its credibility as a non-political institution. Any efforts to instrumentalize the Court for political purposes must be rejected. Any temptation to subject the application of the Rome Statute to non-judicial considerations must be resisted. There is only one International Criminal Court. Its credibility cannot be traded away for reasons of political expediency without suffering the costs.

The Rome Statute is not just an international treaty. It is a manifestation of the fundamental principles that serious crimes cannot go unpunished, that victims deserve recourse through the law and that peace and security require justice. These are not new ideas. They can all be traced back to the aims, purposes and principles of the United Nations. What is new is the existence of a permanent international institution to achieve these aims - to punish individuals for their crimes, to provide a voice to victims, and to dispense justice fairly, impartially and independently.

In the years leading up to 1998 there was never any certainty that the International Criminal Court would be created. It took the tireless efforts and dedication of thousands to make the adoption of the Rome Statute a reality. As the Rome Conference recedes further into memory, we must maintain the momentum which led to the Court's creation. We owe it to those who worked so hard for the Rome Statute. We owe it to those whose hopes for justice have been raised by its adoption. And we owe it to the present and future generations for whose sake the Court was created.