

General Debate  
International Criminal Court  
Review Conference  
31 May 2010, Kampala

Statement of Norway  
Mr. Jonas Gahr Støre  
Minister of Foreign Affairs

Check against delivery

Mr President,  
Excellencies,  
Ladies and gentlemen,

We are here in Kampala to review the Rome Statute that paved the way for the International Criminal Court. We should review - but also celebrate - both the ICC and the political, diplomatic and legal work it took to create it.

On this occasion, I wish to sincerely thank the Government of Uganda for the kind hospitality it is showing us in the beautiful surroundings of Lake Victoria. We are in the region of the Great Lakes, where we are reminded, at the same time, not only of past history, but also of recent events that give us ample reason to pause and reflect. We are invited to direct our reflections not solely at the contributions of the Rome Statute - we also have a

responsibility to fully assess our concrete commitments to it.

The Rome Statute is the manifestation of a call for justice and a response to impunity in the face of mass atrocities.

We know the corrosive effect of cultures of impunity for such crimes.

We do not need further evidence of how pervasive impunity can, in the long term, threaten peace and security.

We need no further reminders of how it may, silently but insidiously, plant the seeds of renewed violence amongst efforts of reconciliation.

We need not recall that cultures of impunity directly contradict the protection of human rights and development. Impunity for the most serious crimes of concern to the international community as a whole is clearly contrary to international law.

We have a common obligation to prevent and end impunity for international crimes. It was this obligation, combined with the hard work of our delegates at the Diplomatic Conference in Rome in 1998, that resulted in the creation of the Rome

Statute and ultimately the establishment of the International Criminal Court. It is this obligation, refined by the entry into force of the Statute, and the continued need for hard work that have brought us all here to Kampala today.

Seen in a broader perspective, the creation of the ICC illustrates that the international community has proven its ability to rise to the occasion. The establishment of the Court has strengthened our pledge to secure the dignity of women, men and children. This Review Conference should help us deliver on that pledge.

Mr President,

Twelve years after the adoption of the Statute, and eight years after its entry into force, how can we best measure its success? Let me share a few Norwegian perspectives.

First, the Statute has already triggered a silent, but irreversible process of legal reform. Criminal codes are increasingly being reviewed and modernised in light of the Statute. National prosecution authorities are being re-assessed, in terms of both their organisation and priorities in the field of international cooperation. Military manuals and operating procedures are being redrafted - not

hampered, but aided by the increased legal clarity provided by the Statute.

Second, regional cooperation is increasing in this field, as reflected in the frequent references by the Security Council of the United Nations to the rule of law and criminal justice as an integral element of international peace efforts.

In this field, there has been a sea change. The Statute is both a catalyst and a reflection of this change. Norms are changing.

Let us be clear. It has never been envisaged that the success of the Rome Statute should be measured by the number of international prosecutions and sentences by the International Criminal Court. The Statute is intended, including through its principle of complementarity between the Court and national jurisdictions, to act as a spearhead to end impunity. Being a spearhead does, however, not make it a substitute for effective action at national levels.

Let us be clear also on this point: it has never been expected that implementation of the Rome Statute would be effortless and automatic, or would be possible without full cooperation and support at national levels. Of course, the Court cannot be immune to criticism and scrutiny. The success of the

Court itself will be measured by the quality of its work. And by quality I mean the application of the highest legal standards.

But criticism of the Court for its lack of effectiveness could in some cases be reformulated as criticism of national implementation and compliance. This Review Conference provides an opportunity for further reflection on this interface between the international and the national levels.

The reasons for celebration are thus not reasons for complacency. Our goals are bold. They also include achieving universality of the Rome Statute. I am very pleased to note that, with the entry into force of the Rome Statute for Bangladesh, there are now 111 States Parties to the Statute. It is a remarkable achievement that so many States from all regions have ratified the Statute in such a short period of time.

But we need to move on, and we call on all States that have not yet done so to become parties to the Statute.

Mr President, this Review Conference will devote effort to the consideration of the crime of aggression.

No doubt, the crime of aggression is already prohibited under customary international law, as stated by the General Assembly of the United Nations when considering the acquiescence of Nuremberg.

It is understandable that careful consideration is given to whether agreement can be reached on criminal provisions and jurisdiction mechanisms that would make it possible to prosecute perpetrators of the crime of aggression. We welcome this consideration - and we welcome that it is taking place in a well-structured format.

However, let me underline a key caveat for Norway. The implementation of and compliance with international humanitarian law has for a long time been a key priority for my country. We observe that this is an area of law that already enjoys a high degree of legal clarity at the international levels, but that nevertheless it has been severely lacking in terms of effective compliance mechanisms.

This situation has fundamentally changed with the establishment of the Court, which has a potential that still needs to be fully explored.

At the same time, we see scope for further consolidation of the Court's position as a vital and effective instrument in the international community's

fight against impunity for genocide, crimes against humanity and war crimes. The Court's tasks at present are challenging. We are still in an early phase, and we must ensure that existing priorities are not undermined. Our work in this matter must be guided by what we believe is in the best interests of the well-functioning of the Court.

We are also of the view that the Court will be most credible and effective if it focuses on individual criminal responsibility for the key instigators of crime - without triggering other consequences that would follow from the attribution of responsibility to States.

This was one of the important lessons of the Nuremberg trials and judgment: to de-link the legal consequences of a specific responsibility of persons who "high-jack" state organs from the question as to whether States and their societies shall also be held responsible and have to suffer the legal consequences, including as regards reparations.

I fully acknowledge that these are not clear cut issues. We recognise that there are particular pitfalls and challenges as regards the crime of aggression. As opposed to other international crimes, its proposed definition appears to require a prior determination of the conduct of a State. In terms of

political perceptions and policy considerations, this would need to be carefully considered.

Mr President,

Later this week this conference will embark on a stocktaking exercise, and we will consider the progress made and the challenges still ahead for international criminal justice.

One of the topics that will be discussed thoroughly is the relationship between peace and justice. As Minister of Foreign Affairs of a country deeply involved in peace processes around the globe, we are constantly striving to strike the right balance between our obligation to justice and our ambition for peace.

Yes, there may be grey zones and hard choices. But let us agree on the fundamentals: justice is not possible without peace, and sustainable peace is not possible without justice.

Still commitments in words and pledges are not enough. We are faced with practical challenges on a daily basis.

We need to work for peace and justice at the same time - with the ambition of using every opportunity

to contribute to peace while ensuring that justice is not sacrificed.

This approach is consistent with the Rome Statute and it should guide us when we address concrete situations, including in Sudan.

While Norway is committed to the fight against impunity, the government I represent is also deeply committed to the peace process and the implementation of the Comprehensive Peace Agreement in Sudan, and we support the ongoing efforts in Doha to reach an inclusive political settlement to the crisis in Darfur.

Our commitment to the peace process entails a close dialogue with the Sudanese authorities. In this dialogue, our message on the ICC remains clear and consistent: we call on all states, and, of course, on the Sudanese authorities, to cooperate fully with the Court and to comply with their legal obligations under Security Council resolution 1593 (2005).

By implication Norway urges all other States that have legal obligations under the Statute, or that have entered into cooperation agreements with the Court, to fulfil their obligations and demonstrate their commitment to justice in practice. All States

Parties must do their utmost to provide the ICC with the best possible working conditions.

Mr President,

The ICC is still a young institution. We must continue to be vigilant in our support. Cooperation with the Court must take many forms. During the pledging ceremony tomorrow, Norway will announce a concrete commitment to submitting a proposal for an agreement with the Court on the enforcement of sentences.

We will propose a resolution on more flexible solutions for the enforcement of sentences, and we look forward to a discussion of this proposal later during the conference. I believe this to be an innovative approach to this very practical challenge.

The host State, States Parties, other States, civil society actors and not least the Court itself, have all been involved in the extensive preparations for this conference.

I salute the Coalition for the International Criminal Court for the role it has played. Over the years, under the able leadership of Mr Bill Pace, it has played and continues to play a seminal role in promoting effective participation by non-governmental

organisations in the building of international criminal justice.

I am confident that, with all this mobilisation of determination and good will, the Review Conference will be successful and fruitful, and that it will impact on our work in the years ahead.

Thank you, Mr President.