



**Cour
Pénale
Internationale**

**International
Criminal
Court**

Le Président
The President



Judge Tomoko Akane
President of the International Criminal Court

Opening remarks at the 23rd session of the Assembly of States Parties

2 December 2024
The Hague

Madame President of the Assembly,
Esteemed delegates,
Representatives of civil society,
Ladies and gentlemen,

I am honoured to appear before the Assembly of States Parties. The Court and Judges, including myself, only speak through their judicial decisions. That said, I appear before you today in a completely different function. I am here to address you as the President of the Court, and on the Court's behalf, to talk about the extraordinary situation we are in.

In March this year, at the outset of our mandate, I, Vice-President Aitala and Vice-President Alapini promised to strive for the stability and strength of the Court and its ability to deliver justice in an increasingly fair and efficient manner. We committed ourselves to making the Court a safe environment where abuse and harassment have no place and everyone has the opportunity to contribute to our mandate while realising personal aspirations.

The difficult circumstances that subsequently arose are only strengthening our determination. We will never give up to coercive measures, threats, sabotage or outrage. The Court, which upholds the principle of the rule of law, will continue pursuing justice and defending the dignity and the rights of victims of atrocities without fear and favour, while ensuring full respect of the highest standards of defence rights. I make this solemn pledge today before you, on behalf of all those who work at the Court.

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Madame President,

As atrocities continue to plague the world, the Court has become more and more relevant. We are realising the expectations of the women and men who dreamt of a permanent, independent and impartial court since the end of the world war. Particularly in the last two years, the Court's activities have understandably attracted high political attention.

The Court has been subjected to attacks seeking to undermine its legitimacy and ability to administer justice and realise international law and fundamental rights; coercive measures, threats, pressure and acts of sabotage. Several elected officials are being severely threatened and are subjected to arrest warrants from a permanent member of the UN Security Council, merely for having faithfully and diligently carried out their judicial mandate per the statutory framework and international law. Two other warrants have been newly issued, as in the Presidency's recent public statement. The Court is being threatened with draconian economic sanctions from

institutions of another permanent member of the Security Council as if it was a terrorist organisation. These measures would rapidly undermine the Court's operations in **all** situations and cases and jeopardise its very existence. We firmly reject any attempt to influence the independence and the impartiality of the Court. We resolutely dismiss efforts to politicise our function. We have and always will comply only with the law, under all circumstances.

We find it appalling that certain States and individuals are scandalised when the independent Judges issue decisions in line with the evidence and the law. What matters is not the pointing finger, but the moon. We would rather expect that all States, first and foremost States Parties to the Rome Statute, as well as all persons, would be scandalised that criminal conduct, established to the requisite legal standard, have been committed.

Right now, in every part of the world, millions of innocent people are victims of unimaginable atrocities and persecution, living in misery, violence, fear and terror. All decisions of the Court are crammed with suffering humanity. If you endeavour to read between the lines, you will find endless stories of shattered lives, pain and crushed hopes of humans just like us, our children, our mothers, fathers, sisters and brothers. One can agree or disagree with our public decisions. But, please, look at the moon and not the finger pointing to it.

The Court is an international judicial body. As it was underlined by a Chamber in a recent decision, by exercising jurisdiction over the gravest breaches of international principles, values and laws, it performs functions that align with the general interests of the international community as a whole and therefore the interests of humanity. The Statute clearly defines the scope of the Court's jurisdiction and the rules of legal process. Within those boundaries, Judges act independently and impartially.

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Madame President,

The staff of the court is our wealth. One thousand persons from 109 different countries with diverse backgrounds work at the Court. Their intelligence, dedication and passion for humanity, which has been further strengthened in the current extraordinary circumstances, is for me a reason of heart-warming pride. As a new generation of talented professionals is emerging at the Court, I look at the future of this noble institution with firm confidence.

Improving work place culture is a top priority for the Judiciary. This Presidency adopts a zero-tolerance policy for any form of harassment and misconduct. Any allegations against Judges have been taken extremely seriously and appropriately dealt with under the relevant legal framework.

As with all Judges of the Court, in my judicial functions, I have been listening to the voices of witnesses and victims. I cannot forget what a victim responded when asked why she chose to testify. She stated: *'I am hoping that justice will be administered. Why did they spoil my life like this? Why did they ruin my children's lives? I want justice to be done.'* This is, I believe, the most profound meaning of our work: to give suffering humanity hope and truth.

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Madame President,

I would like to wholeheartedly thank the Presidency of this Assembly, yourself, Vice-President Kassangana and Vice-President Kanu, all States Parties and all the entities, first and foremost civil society representatives, which have been lending encouragement and support to the Court in these difficult circumstances.

I will reiterate once again that without States' unconditional support and cooperation, the Court cannot operate. Let me be very clear. This is not **our** Court. Although technically it is grounded on a treaty, it is also not merely **your** Court. It is the Court of your people and of humanity as a whole. When you support the Court and the cause of international criminal justice, you are supporting yourselves, the values on which your democracies were erected and stand, as well as the principles that tie your citizens together.

I have mentioned the existential threat of sanctions. Let me be honest. There isn't such a thing as selective sanctions or coercive measures. If the Court collapses, this will inevitably imply the collapse of all situations and cases. Witnesses, who the Court vowed to protect, will be abandoned. Field offices will no longer be maintained. Victims across situations will be left without remedies or hope. Elected and not-elected officials, your own citizens, and their families will endure tremendous consequences.

The fall of the Court would imply the fall of the rule of law in the international community and a final defeat of the fight against impunity. Victims would no longer be able to obtain justice. For many of them, a world without the ICC is inconceivable. I starkly remember the testimony of a witness, who explained why she chose to testify by stating: *'I know no one else can defend me, only justice, the judges. They are the only ones who can help me. [...] because what happened to me, I wouldn't want that to happen to anyone else'*. By bringing down the Court, we would be failing these victims and breaking the promise of 'never again'.

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Madame President,

The Court needs a stable budget to effectively purse its mandate and address the current challenges. Without adequate resources, the Court will not be able to conduct its proceedings at pre-trial, trial and appeals levels, and to deal with those threats and interferences that have become a daily occurrence. In the annual proposed programme budget, the Court has sought to transparently and honestly explain the actual judicial needs.

The unprecedented situation the Court faces has brought a transformative shift in the Court's security posture. The Court has undertaken significant internal efforts to strengthen its security in close collaboration with external partners and certain States. The Court is particularly grateful to the Host State, the Netherlands, for its strongest political and material assistance. Their commitment to the Court and the cause of international justice is admirable. However, we have transparently and respectfully communicated, on several occasions, that we consider the current security safeguards for certain officials and the Court insufficient. We respectfully call for preventative security measures to be substantially enhanced on an urgent basis.

The safety and serenity of those officials who carry the burden and the responsibility of difficult decisions is a precondition for the very existence of the Court, its independence and impartiality.

At the same time, we stress that the burden to protect the Court, politically and physically, must be shared by all States Parties. We are gravely concerned that any cuts in the resources requested for security purposes would have dangerous repercussions on our ability to ensure secure and consistent operations. More generally, we respectfully but firmly urge States who have yet to pay their contributions for 2024, including my own Country, to fulfil their financial obligations and avoid delays in the future. On our part, we respect your taxpayers and we commit to spend financial resources honestly and transparently.

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Madame President,

We warmly welcome Armenia as a State Party to the Rome Statute. We also welcome Ukraine, which has deposited its instrument of ratification in October, and will be a State Party as of 1 January 2025, bringing the number of States Parties to 125 for the first time in the Court's history. This amounts to approximately two-thirds of the international community in all regions. The Court will continue to promote the universal ratification and the full implementation of the Statute, in close partnership with States and civil society organisations, with an eye to achieve proportional representation of each region as a condition to increase the strength of the Court. We

are demonstrating with our independence, impartiality, resilience and seriousness that it is worth taking active part in the Court.

The decision to join the ICC is a commitment of an extraordinary significance. It is not an empty pledge; rather it gives rise to concrete legal obligations. Under Part 9 of the Statute, States are under a legal obligation to cooperate with the Court. The obligation to arrest and surrender is one of the main means to give effect to this duty of States and allow the Court to achieve its mandate.

The number of arrest warrants that are pending execution continues to increase. This is concerning. Certain States Parties host on their territory individuals wanted by the Court. Others have failed to cooperate with the Court. We respectfully but strongly urge States Parties to fulfil their statutory obligations in line with the commitments made when signing the Rome Statute.

The Statute provides means for States to engage with the Court when they have concerns related to cooperation. Constructive dialogue between States and the Court in this respect is vital. For it to be meaningful it must be timely and in good faith. It is worth recalling that according to Article 119 of the Statute, any dispute concerning the judicial functions of the Court shall be settled by the decision of the Court. We expect that State Parties respect the prerogative of the Court, as a judicial institution, to interpret the law and that they do this consistently across all situations. Public calls for disrespect of our decisions and legal interpretations risk weakening the Court's legitimacy and credibility and ultimately your own interest that international law is respected and atrocities are prevented and punished.

Cooperation is not only relevant in respect of surrender. It is also essential throughout the proceedings, including upon release or interim release of defendants or suspects from the ICC Detention Centre. We are mindful of the serious burden placed on the Host State and we urge States Parties to share this responsibility with the Netherlands.

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Madame President,
Esteemed delegates,
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Ladies and gentlemen,

We are at a turning point in history. Regretfully, this is not rhetorical. International law and international justice are under threat. So is the future of humanity. The International Criminal Court will continue to carry out its lawful mandate, independently and impartially, without giving in to any outside interference.

At this very moment, countless innocent civilians are suffering. Conflicts and persecutions are plaguing the world. The Court is not the only solution to this. Courts don't make wars, nor do they make peace by itself. This is a responsibility of politics.

The Court has a judicial mandate: to determine whether certain conduct gives rise to individual responsibility for international crimes. We are mindful of the tremendous responsibility that we have, to enforce the principles of the Rome Statute and rules of international law criminalising grave breaches of fundamental norms of international law, which are essential safeguards to international peace and security and human dignity.

But we cannot do this alone. The danger for the Court is existential. We need the support of civil society representatives from all regions of the world. We need a robust Assembly of States Parties committed to defending the independence of the Court and the primacy of international law and of fundamental rights. The Court's future is now entirely in your hands. If you commit, individually and collectively, to keep the pledge you have made in Rome, the Court can continue to provide what for humanity is the most essential sentiment: *hope*.

Thank you very much.

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