



Remarks by ICC Prosecutor Karim A.A. Khan KC at the opening of the 23rd Session of the Assembly of States Parties

Statement: 2 December 2024



Madame President of the Assembly of State Parties, Vice Presidents, President of the Court, Judge Akane, Vice Presidents, Chair of the Trust Fund for Victims, Mr. Registrar, Deputy Prosecutors, Excellencies, civil society representatives, it's a great honour to be able to address this 23rd Session of the Assembly of States Parties, and in fact, listening to the very powerful and deep address by the President of the Court, Judge Akane, there's a lot to ponder. I do hope that we don't just move on to subsequent events. I think there's an awful lot to digest and really take to heart in that very wise speech by the President of the Court.

It's clear by any metric, by any benchmark, this Assembly is at a pivotal time. We are facing unprecedented challenges. We see civil society, victims, survivors, humanity at large, I think, have unprecedented expectations. And, indeed, as President Akane said at the end, there is also hope. There is also hope that this Court that was given birth to by States, by the Assembly of States Parties, can make a difference for so many that feel completely lost, invisible, persecuted, or without shelter.

I've said it before, looking at the globe, we do see a pandemic of inhumanity. Look at Ukraine, look at Palestine, look at Darfur, look at so many other parts of the world where the Office and the Court are trying to vindicate the promise of the Rome Statute, we see seemingly a world in which people feel their lives don't matter. It seems that we are accelerating towards disaster, and accelerating almost that life doesn't have value equally.

And there's really a fundamental question: whether or not the international architecture that's been built in the aftermath of the Shoah, the horrors of the Second World War can survive this tempest, whether or not the architecture can give shelter. And international law, the International Criminal Court, is part of that discussion. It's being tested. And history will judge whether or not the promise of the Rome Statute is vindicated in practice in the maelstrom that we see around us, not only the storm we face but winds that are perhaps to come.

But despite that, really the focus of my remarks today is that we don't have the luxury, nor do we need to give in to despondency and despair. Not out of some naive belief that tomorrow will be better than today, or some willful, stubborn decision to willfully close our eyes against the reality that we see, but because of you. This coalition of actors, all of you – civil society, victims, States, judges, lawyers from so many parts of the world – that have conurbated from the four corners of the world here in The Hague not only to recommit to giving effect to the international law obligations of the Rome Statute, but a commitment that every human life matters. And you're part of this movement, the movement that spills out beyond the confines of this congress center to so many parts of the world.

As President Akane said, the ICC is not a silver bullet to solve the maladies of humanity. There are other justice mechanisms that also are extremely important. And we see this burgeoning willingness of civil society, of victims, of States to

embrace national processes under the doctrine of universal jurisdiction, an increased appetite to look at regional human rights bodies for allegations of breaches of human rights, a revitalised, energetic International Court of Justice as a principal organ of the United Nations, and yes, this International Criminal Court.

And it is not us, elected officials, who are ships that pass in the night, it is not the representatives and the distinguished delegates in this hall now. It's a movement and a demand from humanity around the world, in Latin America, in Asia, in Africa, in the Caribbean, in the Pacific Islands, in Europe to put the law centre stage. And I think that demand, that rising voice of humanity, is something that we need to pause to listen to. And if we listen, we'll see it's deafening, and it is not being silenced, and it is growing stronger.

Just five days ago, Madame President, I was in the largest refugee camp in the world, in Kutupalong, in Bangladesh. And I said to the men and women and the children that I spoke to, I think a truth that we've all seen in different contexts in this area of law, that sometimes the brightest hope coalesces in the darkest space. Victims that have endured so much, that have fled, have this righteous demand for justice and accountability, the belief, that somehow trumps their own experience of having their rights violated.

And one child, as I with my team, were sitting on the floor in Kutupalong, rather pathetically and powerfully and simply as only children can do, told us how every morning as they were getting ready for school, with makeshift teachers in a makeshift location, would sing very loudly the anthem of Myanmar, with love for Myanmar, with loyalty for Myanmar, with fidelity for Myanmar, a country that they yearn to go back to, and yet which refuses to recognise them, an authority that we allege has been responsible for their persecution and their violence. The voice of that child and other children for something so basic: the right to go home, the right to have a future, the right to have education, the right not to have their childhoods, their futures, stolen, is something why, an imperative why, you States, with civil society's advocacy and support, demanded the creation of this International Criminal Court.

And ten days ago, I was in Libya, and with the team who's done such fantastic work, we were speaking with many victims, mothers who had lost children, and husbands,

and fathers who had lost children, and brothers, and again, one hears not sugarcoated, one has to listen to the very painful, the very difficult stories of loss, and the expectation that despite every night being difficult, every day being arduous for them, they believe that this assemblage, this Assembly of States Parties, the Court and its organs will discharge our responsibilities to see them, to see them and their suffering, and realise they are as equal under the moon, as President Akane said, under the sun, under the day and under the night as any other child and person anywhere in God's good earth.

And ten days ago in Libya, I could also announce an application, that the judges had unsealed, of six warrants for the arrest of individuals from the Al Kaniyat militia. And that meant so much to these victims. It didn't ameliorate the fact that they had lost a universe when their loved ones were snuffed out. But they did feel seen. And it helps to give power and autonomy. Because the fact that the Court had moved forward made them believe that justice wasn't a mirage. It was an oasis that hopefully one day they would drink from. And they could conurbate around to assuage the wounds of their heart and their soul that they have suffered.

And I think it's only fair to say that as a Court, with the leadership of the President of the Court, and the judges, and the Registrar and his staff, and the Office of the Prosecutor, and the excellent men and women of the Office, the Trust Fund for Victims, demonstrably we can demonstrate, we can show we're not engaged in polemics and fine words but concrete actions to show that the law has meaning and has relevance and we're improving. We're not perfect, but we're improving in the quest to make the International Criminal Court more relevant to people that we serve, to the humanity that we are part of.

The day after I was in Kutupalong, I went to Dhaka. And we could announce then also the first application for a warrant of arrest, that is now before the Pre-Trial Chamber, in Asia, or at least in the Myanmar/Bangladesh Situation. And the reaction, if I may follow the example of the President, is worth repeating because it moved me to the core. And it's something, again, I think should resound loudly.

One survivor said this, and I quote, "This is not the end, but it is the beginning of our healing. I now feel that our story is still being written."

Just three days after I left Libya, and met with those victims in Tarhunah, it was reported that the Libyan authorities successfully arrested a second person that was named in the warrant of arrest issued by the judges of the ICC. That's not enough. We can't pretend warrants are enough, or judicial proceedings are enough. But for communities around the world, we should not underestimate collectively the importance of being seen and heard as they feel their own stories, their own accounts, their own sufferings, the pogroms or alleged criminal activity against them is drowned out by other headlines that we see every morning, noon and night when we turn on our television, at home, or even look at our phone.

And this sense of momentum permeates the collective work of the Court. In the last year, my Office has received a record number of Article 15 communications from civil society and other stakeholders: a 150-percent increase last year over the year before, which itself was a record high. We have seen in the last 18 months because of the collective work in the Office with civil society, with other partners, the excellent work of the men and women, the support of the Registrar in field activities or security in the field, we have collected one hundred, let me put it differently, we have collected in the last 18 months double the amount of evidence than in the previous existence of the ICC. It's a staggering amount. We have collected in the last 18 months more evidence and information than in the previous 20 years of the Office's existence.

In the last 12 months, we see more states coming forward to refer matters to the Court. Only last Friday, a group of States referred the situation of Afghanistan to my Office.

And we have reinvigorated and reconceptualised complementarity in the policy paper we put out in April of this year, and that's showing tangible results. The engagement with the Democratic Republic of the Congo, with the Central African Republic, with Colombia, with Guinea, shows the potential of moving forward so that justice can be delivered effectively for victims at home.

There are currently 30 outstanding warrants for the arrest of individuals issued by judges of the ICC that are public. Eighteen of those warrants have been issued in the last three years. And of course, that's the public warrants and more warrants were

issued in the last year than ever before in the history of the International Criminal Court.

In relation to Afghanistan, and I mentioned the referral that had been recently made by States, I can also confirm that with the excellent work of the team that's been working consistently, we will be announcing applications for arrest warrants in the Afghanistan situation very soon.

In my last briefing to the Security Council in the Darfur situation, I mentioned to the Security Council that it is our hope and our expectation that by the time of the next report to the Security Council at the beginning of next year, we'll also be able to announce applications for the warrants of arrest of individuals for the period and the allegations since April of last year between the RSF and the Sudanese Armed Forces.

Trials, of course, are progressing apace. The case of Al Hassan has been decided. The Trial Chamber found that my Office proved various charges of war crimes and crimes against humanity beyond reasonable doubt. We are preparing next week for the closing arguments before the Trial Chamber regarding the case against Mr. Alfred Yekatom and Mr. Patrice-Edouard Ngaïssona. The trial is moving effectively in relation to Mr. Said Abdel Kani. The closing arguments in the case of Ali Kushayb, Mr. Abd-Al-Rahman, are scheduled to be concluded next week, certainly this month. And that's largely down to the excellent trial management of the Trial Chamber.

Regarding situations that I haven't mentioned, like Burundi or Côte d'Ivoire, Philippines or Venezuela, the teams have been working with focus to accelerate their collection activities with a view to concrete, clearly identified benchmarks and timescales based upon investigating incriminating and exonerating evidence equally.

And regarding Venezuela, I want to make something very clear that I've repeatedly said. Since I opened the investigation in Venezuela, in Caracas, three years ago, we have been working with focus and without delay, and also in line with our stated policy, to see if complementarity is possible. And we're doing that in all our situations. And when I was in Caracas in April of this year, I also emphasised to the Venezuelan authorities the need to see impetus and real progress. And my Office has

been following up in relation to that, and after the elections of this year, I insisted in my communications with Venezuela, and in public statements, the need to protect the rights of civilians, including children, that they must be released if held for political purposes or anybody that was peacefully protesting. They must let the Office of the High Commissioner for Human Rights in, as had been previously promised to me, in writing, and they must more tangibly cooperate with my Office.

There has been continued engagement. There has been continued discussions on complementarity, but complementarity cannot be a never-ending story. I have not seen the concrete implementation of laws, practices in Venezuela that I had hoped for. As I want to be clear that the ball is in Venezuela's court, the track of complementarity is running out of road. And as I've said repeatedly in public statements and in Venezuela, that our independent investigations are going on. They've always been in parallel. They are active, and we are partnering, we are working closely with a variety of partners to discharge our responsibilities so that, going back to my first comment, all life matters equally. Venezuelans have the same right to justice as the families I met in Libya or in Bangladesh in the last two weeks. This is as basic as it gets, but it's worth underlining that imperative in terms of the decisions that my Office is undertaking.

Madame President, I hope I've been able to make out a case that in the gloom, in the tempest I referenced, in the uncertainty and perils of this moment, we can face these challenges if we stay united, if we stay together. It starts with commending the fortitude, the indefatigable energy, the resilience of survivors and victims, support of civil societies. The hope is not incapable of being extinguished. It is a fragile hope. It is a hope, to steal a phrase of Elton John, it's a candle in the wind. It can be snuffed out. It's for us collectively to shield that flickering flame. And what will blow it out, I think more quickly than anything, is the idea that we're not applying the law equally in all situations, that all life doesn't matter equally, there is a hierarchy in terms of which people, with which passports, from which parts of the world are more worthy of protection, and which people can be disposed of or be rendered invisible because of power politics or the inconvenience of applying the law with fidelity and with integrity.

We need cooperation. We need resources. We need cooperation in terms of executing arrest warrants that are sealed or public. We need solidarity. We need to realise that like hydrochloric acid, what is extremely corrosive to everything that's been built,

built from the foundations of Nuremberg, and all the suffering we've seen in the decades since, and which we see so vividly today, is the perception that it's not a level playing field, and that Lady Justice is peeking out from the blind, from her blindfold, to actually see: is the lance of justice going towards a power interest or is it an area where the law can be applied because there won't be too many inconveniences caused to international relations or power structures?

If we work together, I think realistically, there can be hope. But we need to march shoulder to shoulder. Victims, survivors, civil society, states. Everybody needs to be a partner in this. Everybody has a role to play. If we raise our voices and steel our spine, and fill our hearts with the principle that all lives are of equal value, if that is our belief, if that is our creed, if that is our mantra, and we wed it to collective action, the hope that is so eloquently put forward in the preamble to the Rome Statute may yet strengthen this candle of hope and pierce the darkness of this present age.

Thank you so much.

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