



**Cour
Pénale
Internationale**
**International
Criminal
Court**

Le Bureau du Procureur
The Office of the Prosecutor

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2021 IBA International Criminal Court Moot Court Competition

Opening Ceremony

Keynote Address

Date: 6 June 2021 | *Venue:* online, via Zoom | *Time:* 14:00

Dear colleagues from the International Bar Association,
Dear students,
Colleagues from the legal profession,
Ladies and Gentlemen,

It is a privilege to address you today, and to see – even if virtually - the presence of so many bright young people, all corners of the world represented, keen to learn and hone their skills about international criminal justice and the International Criminal Court (“ICC” or the “Court”).

I am thankful to the International Bar Association (“IBA”) and the Grotius Centre for inviting me.

Both the IBA and the Grotius Centre at Leiden University have been true partners in the movement to advance international criminal justice and greater awareness of the discipline, and this competition and investment in the future is yet another manifestation of that commitment.

I am pleased to be here with all of you and to share a few reflections to launch this much anticipated moot competition.

You may be aware that these are the very last days of my term as Prosecutor of the ICC after having served the Court for some nine years in that capacity and prior to that, another eight years as Deputy Prosecutor. As such, this presents an excellent occasion to share with you some reflections and take stock of the Office’s activities and achievements in the last nine years and think how you – the young generation - can contribute to the future of international criminal justice.

But before doing so, let me go back to the very beginning of the ICC itself, to set the stage for the remainder of this ceremony and the competition you will be entering.

We must not forget that the movement towards international criminal justice has been born on a human history of devastation and suffering through lawless wars, conflict and impunity.

In modern history, the horrors and devastation of the Second World War, in particular prompted a paradigm shift in thinking through the important and symbolic achievements of the Nuremberg and Tokyo trials that atrocities cannot be left unpunished. That lawless wars are repugnant to our cultural ethos and cannot continue unabated without the role and rule of law present.

However, as we know, the world was not yet ready to transform these landmark achievements into a lasting institution.

In the end, the world would wait for almost half a century more, and would witness two genocides - first in the Former Yugoslavia, and then in Rwanda - before the United Nations ("UN") Security Council found consensus to create the UN *ad hoc* tribunals to deal with these situations.

These events prompted a sense of urgency towards the establishment of a permanent International Criminal Court to investigate and try atrocity crimes.

In Rome, in 1998, the seemingly impossible was realised.

The creation of the International Criminal Court, through the adoption of the Rome Statute, marked a fundamental shift in global governance to a rule of law based, international criminal justice system comprised of the different national authorities and with the independent judicial institution of the ICC as its nucleus. Surely one of humanity's proudest moments, dare I say.

The international criminal justice project has come a long way since then, and it is thanks to a collective effort.

Its beneficiaries are not one people, one nation, one region of the world, but humanity as a whole. And that is why it is so important that we all support its progress; from States Parties officials, to civil society and – most importantly - you, the young generation; the leaders of tomorrow.

I hope that, by the end of my remarks, you will all be able to see and consider where you, as aspiring young students, and future lawyers, judges, politicians, activists, world leaders, could contribute to this growing movement towards a more law based global order.

In fact, addressing you today reminds me of my days as a law student back home, in The Gambia. For I too, was once a young student with a sense of idealism to do good in the world.

As a student, I worked as a clerk at a local court, an experience which pushed me to vigorously pursue my law degree. It actually pushed me to pursue the career I have today.

As clerk, I saw many women appear before the court being the victims of sexual and domestic violence. I saw how society and the legal system systematically failed to protect them.

I remember thinking to myself: "This is not right; this must change. There must be something I can do to change the way the justice system is addressing the plight of these women, and indeed those vulnerable in society."

Henceforth, inspired by my professors, and by the reality that I saw around me, I was convinced that something needed to be done to remedy that situation. To bring justice to these women. To redress what had been done to them. And that I had a role to play.

Like you, I was inspired to make a true difference in the world we live in.

I believed then, as I do now as the first woman Prosecutor of the ICC, in the power of the law as a potent tool to stop and prevent violence. To pacify communities. To do some good in our chaotic world.

Ladies and Gentlemen,

Indeed, the Rome Statute offers a powerful tool to fight against impunity for the most serious crimes of humanity's concerns by entrusting the Office of the Prosecutor, my Office, with the important task of conducting investigations and prosecutions of such crimes.

To determine if there is a reasonable basis to proceed with an investigation into a situation, my Office conducts preliminary examinations into situations, based on a set of criteria from the Rome Statute which require me to consider matters of jurisdiction, complementarity, gravity, and the interests of justice.

You may be aware of my decisions regarding the conclusion of the preliminary examinations with respect to the situations in Iraq/UK, Nigeria and Ukraine, the latter two with the determination that the criteria for opening investigations are met.

We are also progressively advancing our ongoing preliminary examinations regarding the situations in Bolivia, Colombia, Guinea, the Philippines, and Venezuela I and II.

At the same time, several new situations that might merit the opening of preliminary examinations are already knocking on our door as well. This is, I fear, the reality of the Court's mandate, and the result of the current state of impunity that exists in the world.

In parallel to preliminary examinations, we are conducting active investigations – meaning: collecting evidence in order to establish those most responsible for the commission of the crimes alleged – in nine situations, including in Libya, Georgia and Bangladesh/Myanmar, where we have advanced quite well, as well as in Mali, the Central African Republic and Darfur (Sudan), where we have managed to bring trial cases before the Chambers.

You may have followed the confirmation of charges hearing last week against Mr Abd-Al-Rahman – such an important moment nearly 14 years since the Office issued a first arrest of warrant.

In fact, two days ago I returned from a visit to Sudan. During my mission, in meeting with victims and affected communities in the IDP camps of Darfur, I was reminded once again why justice matters: “Welcome welcome ICC!”, the crowd enthusiastically chanted as we entered the camp. With expectations high, we have to do the best that we can. Justice matters to victims and affected communities. We cannot fail them.

As to other situations where investigations are opened, in Afghanistan, we are currently engaged in a process of consultation with the Government of Afghanistan in light of its request to the Office to defer to its efforts to address Rome Statute crimes domestically.

With respect to the situation in Palestine, my Office recently announced the opening of an investigation, following the judicial clarity provided by the Judges of the Pre-Trial Chamber earlier this year upon my Office’s application regarding the scope of the Court’s territorial jurisdiction in that situation.

The Office has achieved a number of important litigation results and landmark decisions, such as the ruling delivered in the Myanmar/Bangladesh situation confirming the Court’s jurisdiction over the alleged deportation of Rohingya people, and the appellate ruling on head of State immunity in the *Al Bashir* case in the Darfur (Sudan) situation.

We have also secured important convictions that do not only contribute to delivering justice to victims of mass atrocities, but also to the development of international criminal law jurisprudence.

For example, in the *Ntaganda* case, emanating from our investigations in the Democratic Republic of the Congo, my Office secured the conviction of the Accused on all counts, including the crime of rape against women and men and, for the first time in the Court’s history, the crime of sexual slavery. Through this case, we have contributed to emerging jurisprudence by extending the protection under international humanitarian law to also cover crimes committed by an armed group against members of their own group.

Earlier this year we also obtained an important conviction in the *Ongwen* case, for the brutal and terrifying campaigns of attacks on the civilian population, sexual slavery, forced marriage and forced pregnancy, murder, mutilation, torture, pillaging, abduction and other atrocities by the LRA with Mr Ongwen as one of its senior leaders – rendering accountability for the horrific consequences of his actions for the civilian population in Uganda, including for women and children. In May of this year he was sentenced to 25 years of imprisonment.

And the *Al Mahdi* case, following our investigations in the situation in Mali, sent a clear message that the intentional attacks against historic monuments and buildings dedicated to religion is a serious crime under international law.

My Office is currently finalising a policy paper devoted to this topic, which shall be launched prior to my departure. We are equally finalising a policy on situation completion, the last in a ‘trilogy’ of policies, following that on preliminary examinations and on case selection and prioritisation.

There are also the two earlier thematic policy papers on the Sexual and Gender-based Crimes (SGBC) as well as on Children, both matters which I also elevated as strategic goals when I took office in 2012. In addition to our successes in court and other achievements, I consider the promulgation of policy papers an important part of my legacy as Prosecutor.

Ladies and Gentlemen,

International criminal justice is a global project and its beneficiaries are humanity as a whole. We all share a responsibility to advance and strengthen its goals.

Therefore, I ask you to follow closely the ICC and other institutions working to advance the rule of law, and to actively support them for they are too important to falter.

As young leaders, I invite you all to advance directly or indirectly, the ICC’s foundational goals, helping to raise awareness for its functioning, advocating for

greater membership, campaigning for more arrests, contributing to the visiting professional programme, seizing other opportunities to get involved with the Court's ever expanding work, including joining related civil society initiatives. And of course, you can apply to open vacancies at the Court, and become a trial lawyer, an investigator or a cooperation adviser, or work for victims directly or contribute to the work of the defence, and contribute to the wheels of international criminal justice.

I look at you, the new generation and I see myself. You too can be the next ICC Prosecutor one day. Do not let anyone say otherwise. Your talents and energy to do good for the common good are indispensable to humanity's shared quest for a more sustainable, secure and just world.

I am confident that universal values of human rights, and calls for ending impunity for mass atrocities, will increasingly define the 21st century, your century.

We ought to remember, at all times, that the implementation of a system of international criminal justice was not merely a choice, it was a necessity, based on the experience of centuries of suffering from the most atrocious crimes.

We have come a long way, but we have miles to go still before the protective embrace of international criminal law reaches all four corners of the globe, for the betterment and progress of humanity.

And you will encounter challenges, you will encounter resistance – I certainly did!

But if there is one lesson I draw from nine years in office, it is to never give up.

As my dear friend, Ben Ferencz, the last living Prosecutor from the Nuremberg trials, often says: "it takes courage not to be discouraged".

Be brave. Be courageous and above all, be principled and always guided by decency and professional integrity. The quest for a more just world has only just begun. I trust you will take over the torch and advance this important cause, your cause, the cause of humanity.

I wish you all good luck during the competition and thank you for your attention. The world awaits your important contributions, and I am confident, you will all leave your marks. | OTR