Cour Pénale Internationale
International Criminal Court

Le Bureau du Procureur
The Office of the Prosecutor

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The Prosecution of Sexual and Gender-Based Crimes by International Courts

Speech given at the international conference organised by His Excellency, Mr Sidiki Kaba, President of the Assembly of States Parties to commemorate the Day of International Criminal Justice (2016)

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Your Excellency,
Minister of Justice of the Republic of Senegal, and
President of the Assembly of State Parties,
Dear Sidiki,

Excellencies, Ladies and Gentlemen, Ministers, Representatives from the Diplomatic Corps and Guests,

Dear Colleagues,

It is with great pleasure that I am participating in this gathering on the kind invitation of my friend, Mr Sidiki Kaba.

I am very honoured to be here today to celebrate with you the Day of International Criminal Justice in the company of such distinguished guests.

I would like to thank you, dear Sidiki, for having taken this wonderful initiative.

We say this every time, and we say it with much pride: Senegal was the first country to ratify the Rome Statute in February 1999. The country's steadfast support for the International Criminal Court ("ICC" or the "Court') and commitment to the cause of international criminal justice has remained constant ever since.

Indeed, Senegal is one of the countries that have provided continuous support to the Court's activities as one of its principled supporters.

By organising this ceremony here in Dakar today, in your capacity as Minister of Justice and President of the Assembly of State Parties, you are demonstrating once again Senegal's deep-rooted commitment to international criminal justice.

I salute Senegal for this unyielding commitment and for having played and continuing to play such a critical role.

The topic chosen for this event to commemorate the Day of International Criminal Justice is extremely important.

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As Prosecutor of the ICC, as a woman, and as an African, I am delighted to have been given this opportunity to share with you some thoughts on a subject that is very important to me: the fight against sexual and gender-based crimes.

As many of you in this room are aware, as soon as I assumed my duties as ICC Prosecutor, I tasked my Office to work on a policy paper on sexual and gender-based crimes. It is the first policy paper I initiated at the Office.

The idea underpinning this Policy is that sexual and gender-based crimes should be systematically taken into account in our investigations and prosecutions so that the Court responds to such crimes in a consistent and methodological manner.

Sexual and gender-based crimes are most serious crimes which not only destroy the immediate victims of such horrendous crimes, but shatter the family unit, communities and society.

It is past time to stand firm in the face of such a scourge and declare that such crimes should no longer be accepted as inevitable consequences of war and conflict. They should be universally seen as most serious crimes, which are no longer tolerated; that their perpetrators will be held accountable.

The stigma and shame traditionally attached to such crimes must be transferred to their rightful owners: the perpetrators, not the victims.

Given the importance of countering this scourge, I have elevated this issue to a strategic goal in my Office.

The idea has also always been that through our efforts, the policy would also encourage national and international actors to further take into account this type of criminality.

Our Policy Paper was made official at the thirteenth session of the Assembly of State Parties in December 2014.

Today, I am delighted to say that we have taken significant steps towards its implementation.

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Before sharing pertinent details of the Policy, I wish to touch on the recent judgement handed down by the Court concerning Mr Jean-Pierre Bemba Gombo, on 21 June.

Mr Bemba was recently found guilty by the Court on charges of crimes against humanity and war crimes by the Court and sentenced to 18-years of imprisonment.

This verdict is significant because the Judges have in effect confirmed through their judgment that sexual and gender-based crimes committed during a conflict must not go unpunished.

An essential characteristic of this case is the extent and brutality of the crimes committed against men, women and children in the Central African Republic.

Undoubtedly, this judgement reinforces our collective commitment to eradicate crimes committed against civilian populations, including sexual crimes used as weapons of war in conflict situations.

It is because of this determination that we began to implement our Policy Paper as soon as it was adopted.

Indeed, as I have repeatedly stated, the success of a policy depends, above all, on its implementation. Victims of such crimes will not find solace in our words, but in concrete action.

Allow me to briefly give you three examples of the implementation of the Policy.

Firstly, within the framework of the Policy, we committed to taking into account gender issues and their analysis in all areas of our work.

We consider this issue in our preliminary examinations, investigations and prosecutions, in our charges, in the determination of sentences, in considerations involving reparations, and in the implementation of complementarity between the Court and the States Parties.

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What does this mean in concrete terms?

It means that during the contextual analysis of crimes, we devote particular attention to essential factors, such as the social practices that govern relationships between men and women, as well as each of their roles in a given context.

We strive to determine whether the question of differences between genders constitutes, or could constitute, a factor in the manner in which the crimes were committed.

The goal is to understand the reasons why certain forms of violence are exclusively or disproportionately targeted against men, women, boys or girls, and to provide an adequate response.

My Office has also developed guidelines in this regard, which is being applied on our ongoing investigation in the Central African Republic.

As I stated previously, sexual and gender-based crimes are also taken into account in our preliminary examinations, that is to say, during the first phase of our work, when the Office determines whether there is a reasonable basis to open an investigation.

During this phase, my Office systematically gathers and analyses information on the alleged sexual and gender-based crimes. We are currently engaged in such work for instance with respect to Nigeria.

We also strive to obtain information related to any possible investigations and prosecutions of these crimes at the national level.

Your Excellencies, Ladies and Gentlemen,

In accordance with our Policy, my Office *simultaneously* investigates sexual and gender-based crimes and other crimes.

In practice, we ensure that our investigation plans meticulously take into account this category of crime.

If a decision is made *not* to investigate such crimes, it must be justified internally and reported to me.

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Moreover, I wanted to further strengthen our activities in this area.

You will note that by virtue of our 2012-2015 and 2016-2018 Strategic Plans, we are making use of varied forms of evidence more robustly, including scientific expertise and documentary evidence.

In the Bemba case, we insisted on calling an expert on sexual and gender-based crimes, in order to facilitate a thorough understanding of the various aspects of such crimes and their impact.

Our strategy for bringing charges is another important component of the implementation of our policy.

My Office will ensure that our work systematically includes charges pertaining to sexual crimes, where there is sufficient evidence to substantiate such charges.

In the case against Dominic Ongwen, a commander of the Lords Resistance Army, we have expanded the charges against him to include forced marriage, torture, rape and sexual slavery. All of our charges were confirmed by the Judges of the Pre-Trial Chamber.

In line with our Policy, we decided to explicitly retain counts of sexual and gender-based crimes as such, in addition to charges of rape as a form of torture.

We took this approach in order to underscore the seriousness of sexual crimes, to account for their extreme gravity and to further highlight the fact that such crimes can take many forms.

Training and the development of knowledge, with the support of States and our partners, are also key. We continue to invest in this area, in particular to strengthen our capacity to investigate and prosecute such crimes.

We also devote special attention to appropriate ways of interacting with victims of such crimes.

We do all this not only with the assistance of staff from my Office who specialise in such issues, but also by working with external experts.

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In this regard, I would like to express my gratitude to our partners, in particular UN-Women and the organisation, Justice Rapid Response, for the assistance they provided to my Office in the form of external expertise and training offered on a voluntary basis.

We are also continuing our efforts to promote gender equality within our workforce, particularly in the field.

Excellencies,
Ladies and Gentlemen,

In order for this Policy to succeed, it is critical that we benefit from the full support of States.

Additionally, under the Rome Statute, States are primarily responsible for investigating and prosecuting sexual and gender-based crimes, in accordance with the complementarity principle.

In this context, supporting and strengthening national capacity to address these crimes is of the utmost importance.

We hope that our Policy Paper will have a significant impact at the national level.

States are encouraged to take into account such crimes when adapting their national legislation and to provide adequate support to victims.

I hope that States Parties, the Court and other stakeholders will continue to work closely and find innovative ways to further the rich discussions of this conference and take concrete steps to better harmonise our efforts to fight against this scourge.

Again, I emphasize that our words and promises are not enough to comfort the victims of these atrocious crimes. Only *concrete* measures will suffice.

We *must* put an end to sexual and gender-based crimes. Humanity's good name has been tarnished for far too long by impunity for such repugnant crimes.

Our impact is strongest when we are united in a spirit of solidarity and complementarity. That is when we can truly make a difference.

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I would like to thank His Excellency, Mr Sidiki Kaba once again for this unique opportunity to draw attention to the importance of the fight against impunity for this scourge, and by extension, the critical importance of international criminal justice. I thank you for your attention. | OTP

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