International Justice Day: NPWJ and NRPTT call for stronger commitment to the fight against impunity

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Today, 17 July, is International Justice Day: after years of campaigning by No Peace Without Justice (NPWJ) and others, this date was adopted by the Assembly of States Parties to the International Criminal Court (ICC) during the first Review Conference of the Rome Statute held in Kampala, Uganda, in June 2010. International Justice Day marks the anniversary of the adoption by 120 States in 1998 of the Rome Statute, the founding treaty of the ICC, which entered into force on 1 July 2002.

Statement by Alison Smith, Legal Counsel of No Peace Without Justice:

“No Peace Without Justice and the Nonviolent Radical Party, Transnational and Transparty (NRPTT) celebrate International Justice Day as an important milestone in the history of the world, particularly for the victims of crimes under international law. On this day, on which the ICC was born through the adoption of its Statute in 1998, we commemorate this moment with our partners and with everyone involved with the fight against impunity, including the ICC itself.

“We take this opportunity to recall that for the fight against impunity to be won, two things need to happen. States need to take every opportunity to publicly reaffirm their commitment against any attempt to embrace impunity, wherever it threatens to occur, then they need to stand by those words and make accountability happen. The victims and populations that have suffered directly and indirectly from crimes under international law need to be front and centre in the justice process: they are not an “add-on” or a luxury, they are the very reason why we fight impunity at all. Today is also an occasion to highlight a number of developments in the world of international justice, some positive and some worrying, and to note some areas where there have been no developments at all.

“Undoubtedly, the final judgment in the trial of Charles Taylor, handed down on 26 September 2013 by the Appeals Chamber of the Special Court for Sierra Leone (SCSL), marked an historic step in Sierra Leone’s long road towards achieving accountability for the horrors of the 1996-2002 conflict and, crucially, providing some measure of justice and redress to the victims and population affected. It also signalled a major achievement for international criminal justice worldwide, since Charles Taylor was the first former head of State whose case has been heard through to the appeals stage by an international tribunal since the Second World War and the Nuremburg trials. Like the recent decision by Pre-Trial Chamber I of the International Criminal Court confirming the charges for crimes against humanity against former Côte d’Ivoire President Laurent Gbagbo and committing him to trial, the SCSL ruling sent a deterrent and unequivocal message to leaders who at this very moment may be considering committing serious crimes in violation of international law: nobody is above the law and even those at the highest level will be held to account for their actions. Now that the SCSL has completed its mandate successfully, it is essential that all necessary efforts and measures are carried out to ensure that the SCSL leaves a meaningful and consolidated legacy for justice, reconciliation and the rule of law in Sierra Leone. The SCSL is the first international court to close its doors and implement a completion strategy, thereby continuing to show the world how justice can be implemented effectively at the international level with maximum impact in the country
where the crimes were committed. For this reason, we strongly urge the international community, and particularly States who have been supportive of Sierra Leone over the years, to ensure that the Residual Special Court for Sierra Leone, which has taken over from the SCSL, has the modest funding it needs to fulfil these essential functions. This is the only way it can ensure the legacy of the Special Court is not lost to Sierra Leone, the region and the world.

“The experience in a number of countries ravaged by violent conflict shows that the lack of focus on accountability, be it for crimes under international law or failure to adhere to international legal obligations as prescribed in general law and by UN Resolutions, creates a situation where impunity is the norm. For the past three years, Syria has witnessed crimes against humanity, war crimes and other gross human rights violations, which continue to be perpetrated with increasing frequency and brutality. Three years of failure by the world to end the appalling suffering that disproportionately affects civilians, particularly women and children. Since the beginning of the conflict in 2011, we have consistently advocated that being firm on accountability is the best way to serve the cause of peace and security in Syria. On 22 May 2014, the United Nations Security Council was finally called to vote on a resolution - submitted by France and sponsored by 62 UN Member States - to refer the situation in Syria to the ICC. The support expressed for the resolution by all Security Council members, with the exception of Russia and China, signals that a growing number of States are willing to investigate and prosecute those who bear the greatest responsibility for the atrocities that have been committed against the civilian population in Syria. Russia and China, by obstructing the resolution’s adoption, bear the shameful responsibility for impeding responsive action to address ongoing crimes and abuses and to ensure that their perpetrators will be held accountable. Despite the failure of all diplomatic initiatives launched so far, we still hope that the international community will finally manage to enforce its responsibility to protect the civilian population in Syria, so that next year’s International Justice Day can be a day of celebration for the Syrian people rather than a mournful reflection.

“Fostering political commitment at the national and international level is also crucial to address one of the most pressing human rights issues of our time, namely sexual and gender-based violence (SGBV) in conflict. SGBV continues to be an under-reported but devastating crime committed in numerous conflict-affected countries across the world. From Afghanistan to the Democratic Republic of Congo, Bosnia, Syria and Sudan, women and girls as well as men and boys have been and continue to be targets of these kinds of abuses committed by armed forces or groups with total impunity. Accountability and redress for these violations must be put front and centre if there is to be any hope for reaching lasting stability, reconciliation and peace in affected countries. As called for by the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict, supported by the Government of the United Kingdom and launched at a Global Summit held in London last June, the international community should help and support the monitoring and documentation efforts of activists and NGOs working on the ground. They should provide assistance to build appropriate accountability mechanisms to ensure perpetrators of SGBV face justice and the experiences of survivors are not forgotten in the post-conflict world. The Protocol has the potential to make an enormous impact at the national level, including on grassroots efforts to fight impunity for these crimes: we must ensure it has every opportunity to do so.

“Justice and accountability are also an essential component of supporting an effective transition from authoritarianism and illegality to democracy and the rule of law. Common threads running through all “Arab Spring” countries are undeniably the desire and need for justice, accountability and reconciliation, for acts committed during the revolutions and for past years and decades of human rights abuses. It is critical that victims are empowered to hold accountable their governments and others who committed wrongs against them. We are proud to be facilitating these processes, especially in a country like Libya, where victims suffered the double repression of living under a dictatorial regime. Without underestimating the serious challenges that the Libyan judicial system faces and the serious security concerns of the current crisis, the trials against Saif al-Islam Gaddafi
and other former top leaders of the past regime before the Libyan Courts mark an historic opportunity for the Libyan authorities. Through these trials, Libya can demonstrate its ability to break with the legacy of impunity and abuses that typified Gaddafi’s rule and replace it with a new respect for the rule of law by meeting the promise of justice and redress for the victims and their families. It is critical for the Libyan judicial authorities to ensure that the domestic proceedings are conducted with fairness, impartiality and strict adherence to all due process rights, according to the highest international standards. The international community should provide technical support to local authorities and civil society, including to monitoring mechanisms such as the Libyan Trial Monitoring Network, established in August 2013 with the support of NPWJ, which is monitoring very closely the proceedings of Mr Gaddafi’s trial in Tripoli. This could play a unique and significant role in supporting judicial reforms and enhancing the fairness, effectiveness and transparency of the Libyan judiciary.

“For the International Criminal Court itself, this has been a year of ups-and-downs. What remains constant is that to maintain and strengthen its relevance and impact, the ICC must have teeth. It must be sufficiently well resourced and supported, and sufficiently effective and efficient, to be a real threat, not merely a paper tiger. To give real teeth to the promise of justice, all States Parties should fulfil their obligations under the Rome Statute and cooperate fully with the ICC, notably by ensuring as a matter of priority the enforcement of all its outstanding arrest warrants. We cannot – and must not – forget that there are still numerous fugitives from justice: their prompt arrest and transfer to face trial is the least that their victims deserve. Countries must not allow their territory to become a safe haven in which alleged war criminals may hide, no matter their position in their State of origin. As is recognised in customary international law and the Rome Statute, there is no immunity when it comes to war crimes, crimes against humanity and genocide.

“States Parties must ensure that the ICC has sufficient financial resources and support to carry out its work and is in a position to be responsive to the needs and expectations of its primary constituents, i.e. the victims of the crimes it investigates and prosecutes. As we have constantly stressed, the ICC’s main challenges in maximising its impact lie in its outreach work and its field presence, two areas where important progress has been made but which remain woefully inadequate for the ICC to implement fully its mandate. The Court should ensure outreach from the very outset of the ICC’s involvement in any situation, including during the preliminary examination phase, and should encourage victims’ participation, especially for the most vulnerable people such as women, children and youth. These efforts will have a tremendous impact in the coming years on the ICC’s ability to ensure a positive and lasting legacy in countries in which it operates.

“At the same time, we note that the pursuit of justice cannot be undertaken solely by the ICC, which focuses on perpetrators at the highest level. In ICC situation countries such as Kenya and Côte d’Ivoire, the national authorities also have a responsibility to their citizens to pursue justice, truth and reparations and prevent impunity at all levels. We urge these authorities to provide appropriate and effective accountability for the many crimes that the ICC is unable to cover, utilising various domestic transitional justice approaches that must include criminal justice. It is only by ensuring that justice is finally done for victims and upholding the rule of law that they can show a real break with the past and regain the trust of their people in State institutions. This would be an important signal that these countries are committed to turning a new page and moving to a future based on full respect for the human rights of all”.

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