



**BANGLADESH**

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Statement by

Dr. A.K. Abdul Momen  
Permanent Representative  
Of the People's Republic of Bangladesh to the United Nations  
at the Security Council Open Debate on "Peace and Justice, with a special focus on the  
Role of the International Criminal Court"  
under the agenda item "Promotion and strengthening of the rule of law in the  
maintenance of international peace and security"

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Mr. President,

I thank Guatemala for scheduling this very important open debate on "Peace and Justice, with a special focus on the Role of the International Criminal Court", under the agenda item "Promotion and strengthening of the rule of law in the maintenance of international peace and security". Allow me to express our appreciation to Foreign Minister of Guatemala, Harold Caballeros for his participation in today's debate, and the UN Secretary-General, the ICC President and the representative of the ICC Prosecutor for their comprehensive briefing this morning.

Mr. President,

Peace and justice are complementary to each other. Peace processes that take justice into account are more sustainable and lasting than those that do not. In negotiating peace processes, taking into account the views of victims is critical. Victims want peace in the beginning and, once peace was obtained, they demand justice. If Justice is not met, that creates room for relapsing into conflict.

The establishment of the International Criminal Court, a permanent court to help fight impunity for the crimes of highest concern to the international community, is considered a milestone. The ICC was given jurisdiction over genocide, war crimes, crimes against humanity and aggression. As of September 2012, 121 states have ratified the Rome Statute, which came into force on 1 July 2002, and are subject to its jurisdiction. Bangladesh is a state party to the ICC.

The Rome Statute granted the Security Council unique powers to refer situations and place them under the jurisdiction of the Court, even in a case concerning a non-State Party. Article 13(b) of the Statute allows the ICC to exercise its jurisdiction regarding the aforementioned crimes when the Council, acting under Chapter VII, refers a situation to the Prosecutor of the Court. Article 16 allows the Council in exceptional circumstances to pass a resolution under Chapter VII to defer an ICC investigation or prosecution for a renewable period of 12 months.

The Security Council is a political organ of the UN. On 26 February 2011, the Council unanimously adopted resolution 1970, referring the situation in Libya to the ICC, imposed an arms embargo and targeted sanctions (assets freeze and travel ban), and established a sanctions committee. Resolution 1970 also invited the Prosecutor to address the Council within two months—and every six months thereafter—on actions taken pursuant to the resolution. However, it also appears that the Council could not actively cooperate with the ICC on this referral. In fact, the few instances of Council cooperation with the ICC are related to situations that were initiated by the situation countries themselves or by the Prosecutor, under Articles 13(a) and 14 and 13(c) and 15 of the Statute, respectively, and therefore independently of the Council.

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Another worrying factor is that the pertinent resolutions contain provisions that are contrary to the integrity of the Rome Statute. In referral on Libya, the Council excluded nationals of non-State Parties to the ICC from the jurisdiction of the Court or a domestic court in another country, even for crimes committed within Libya. The resolutions also recused the UN from any financial obligations regarding the referrals, notwithstanding Article 115(b) of the Rome Statute which provides for UN funding for Council referrals, subject to approval by the General Assembly.

It is our understanding that these elements are undermining the rule of law by infringing on the work of the ICC and undermining the perception of the Court as an independent legal body, free from political considerations. Therefore, we hope that the ICC, would be better equipped to function as a tool of preventive diplomacy, so that it could assist the UNSC in carrying out its mandate to uphold the rule of law objectively and fairly, maintain peace and security, combat impunity while ensuring accountability.

We call on all concerned to translate their commitment into actions, in particular, through executing arrest warrants and helping to reinforce the rule of law across the globe, but also by building new institutions, social and economic, to achieve, in the long term, justice in a broader sense.

Mr. President,

Victims want justice, no matter how much time had elapsed since mass atrocities had been perpetrated. Here I would like to draw your attention to the case of Bangladesh. In order to bring the perpetrators to justice, we have set up in March 2010 an *International Crimes Tribunal* to "try and punish any individual or group of individuals, or any member of any armed, defence or auxiliary forces" who committed crimes against humanity, genocide, and war crimes, pre-mediated murder, rape, arson, ethnic cleansing, looting of people's property and assets, in 1971 during the *War of Liberation of Bangladesh*. Our ongoing effort is a natural expression of our intention to end the culture of impunity to crimes against humanity. This emanates from our firm belief that peace and justice are mutually reinforcing, and full enjoyment of peace is not possible without a mechanism to ensure sound justice.

We have been taking every step to ensure that our national process conforms to the international standards. This is why leading judicial personnel of the tribunal that we set up in Bangladesh visited The Hague. They followed the work of the Court, including its collection of evidences, the process of assessing their veracity, investigation of gender crimes, and other war crimes. We hope that our trial will be exemplary in ending impunity while also cement national reconciliation. These trials are important not only for us, but their outcome is equally important to the international community and to our future generation. The process will send strong message to others who would commit these crimes anywhere in the world. It will show that it is possible for a national system

of a developing country to bring to justice those who are responsible for war crimes even long after the event.

Mr. President,

Let me conclude by saying that Bangladesh is a responsible, peace loving nation and the government is a strong proponent of democracy, rule of law, human rights and secularism. Bangladesh also expresses its unequivocal commitment to the International Criminal Court and the evolving system of international criminal justice.

I thank you, Mr. President.