

A joint opinion article by the current President of the Assembly of States Parties to the Rome Statute (ASP), Päivi Kaukoranta, and seven former Presidents of the Assembly.

Why Countering the Assault on the International Criminal Court is Necessary to Protect the International Legal Order

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Each of us has had the privilege of serving as President of the Assembly of States Parties of the International Criminal Court (ICC) at different moments in its history. We have witnessed both the remarkable progress made in advancing international criminal justice and the formidable challenges that the ICC has faced since its establishment. We have, at times, been frustrated by serious shortcomings at the Court itself and the tepid engagement from its State Parties, but also enthusiastic about efforts deployed to improve its performance. Throughout, however, one conviction has remained constant: the rule of law in international relations is strongest when States choose to uphold it together.

The debate surrounding the ICC is ultimately not about one institution. It is about whether States remain committed to the international legal order they have built together since the end of World War II.

At a time of aggressive war-making, geopolitical rivalry, the imposition of unprecedented punitive measures and growing pressure on the international institutions, the answer cannot be to retreat from the rules that have helped preserve international peace, security and justice. It must be to strengthen them.

The ICC embodies one of humanity's most important commitments: genocide, crimes against humanity, war crimes and the crime of aggression must never go unanswered.

Sovereignty includes sovereign choices in upholding international law.

The ICC is not a political institution. It is an independent court mandated by 125 sovereign States Parties from every region of the world to exercise a carefully defined jurisdiction over the most serious international crimes, in line with its founding treaty: the Rome Statute.

Sovereign equality of all states is enshrined in the Charter of the United Nations. One of the highest expressions of sovereignty is the decision of States to cooperate through treaties and international institutions in pursuit of common purposes. By adopting the Rome Statute, States freely chose to confer, under certain conditions, the exercise of its own jurisdiction over the gravest international crimes to an independent Court.

This choice to do through an institution what each state had the authority to do on its own is not an intrusion upon sovereignty—it is an affirmation and exercise of it. States have always exercised criminal jurisdiction over foreign nationals who commit crimes on

their territory. The ICC applies that same long-established principle to the gravest crimes known to humanity, by virtue of the mandate given to it by its States Parties.

The ICC is a court of last resort.

The Rome Statute rests on the principle of complementarity. National jurisdictions retain the primary responsibility to investigate and prosecute genocide, crimes against humanity, war crimes and the crime of aggression. The ICC does not replace national courts. It acts only where States are unable or unwilling to genuinely carry out that responsibility.

Standing up for the Court therefore means standing up for something much larger than the Court itself. It means standing up for an international order in which States choose a system based on rules applicable to all because they understand that lasting peace and security depend upon it.

The ICC exists for victims of the gravest crimes.

International justice is not an abstract legal exercise. It is the world's promise that victims of the gravest crimes will not be forgotten because accountability has become politically inconvenient.

Behind every investigation are lives destroyed, families torn apart and communities left to carry the consequences of violence for generations. When institutions of accountability are weakened, it is victims—not institutions—who bear the greatest cost.

No victim of genocide, crimes against humanity, war crimes or the crime of aggression should be denied justice because accountability has become uncomfortable.

And, while the Court is not a standing substitute for national justice, it is a safeguard against its absence.

Efforts to isolate the Court diplomatically — whether by encouraging States Parties to withdraw from the Rome Statute or urging non-States Parties to join measures intended to weaken it — are aimed at eroding not only one institution, but confidence in the international legal order itself.

Whether such efforts succeed will depend on whether States committed to international law and global cooperation are willing to stand together in response.

We therefore call upon all ICC States Parties, international and regional organisations, and the broader community committed to the rule of law to provide the political, legal and practical support necessary for the Court to fulfil the mandate entrusted to it by sovereign States.

The choice before us is between a world based on the rule of law and one where might decides what is right.

Now is the time to strengthen the institutions that uphold international law, not dismantle them. Defending the International Criminal Court is not simply about defending one institution. It is about preserving the international legal order as we have built it, as humanity's strongest safeguard against a descent into lawlessness and impunity.

This is a critical moment for the International Criminal Court and those who support it. This is a moment to come together and rally through effective diplomacy and to reach out in particular to those who may need support to withstand any political pressure to weaken the institution.

'The End