

**EXCERPTS FROM SECRETARY-GENERAL'S
62ND GENERAL ASSEMBLY REPORTS AND NOTES (2007)**

The Secretary-General of the United Nations submitted several reports to the 62nd Session of the General Assembly with references to the International Criminal Court (ICC).

The Rule of Law at the National and International Levels: Comments on information received governments: Report of the Secretary General, A/62/121, Agenda Item 86, 11 July 2007

23. The International Criminal Court, as the most important tool to combat impunity and to prevent genocide, crimes against humanity and war crimes, greatly contributes to the strengthening of the rule of law and respect for human rights. In order to achieve universal acceptance of the Rome statute, we urge all States that have not yet done so to ratify it or accede to it without delay.

The illicit trade in small arms and light weapons in all its aspects Assistance to States for curbing the illicit traffic in small arms and light weapons and collecting them: Report of the Secretary-General, A/62/162, Items 100 (l) and 100 (o) of the provisional agenda, 27 July 2007

C. Activities undertaken by intergovernmental organizations [...]

67. In light of the chronic insecurity and protracted conflicts fuelled, in part, by the widespread proliferation of small arms and light weapons, Interpol, in cooperation with the Office of the Prosecutor of the International Criminal Court, developed the analytical project "Silaha", focusing on illicit arms trafficking in the Great Lakes region of Central Africa. The purpose of the project, which officially commenced in January 2007, is to effectively collect, store and analyse information on illicit arms dealings in the Great Lakes region. With the assistance of partner organizations and agencies, the project aims to centralize relevant operational and strategic data for analysis, with a view to identifying major illicit arms brokers and traffickers, their sources, modus operandi, as well as general criminal trends. A subsequent analytical report was issued in July 2007. The report contains the project's findings as well as recommendations for appropriate action. Through this project, Interpol also hopes to stimulate the exchange of crucial arms-related information on a multilateral basis, via the Organization's existing information and communication channels, and to identify sustainable ways in which the collection, exchange and analysis of information concerning arms dealing could be improved. It is hoped that this project and the resulting analysis will benefit the African countries concerned by small arms and light weapons trafficking and ultimately contribute to achieving a sustainable justice, peace and security in the region.

Implementation of the recommendations contained in the report of the Secretary-General on the causes of conflict and the promotion of durable peace and sustainable development in Africa: Progress Report on the Secretary-General, A/62/204, Agenda Items 64(b), 3 August 2007

I. A decade of achievements and challenges [...]

B. Building a durable peace and promoting economic growth [...]

23. Twenty-nine African countries are now parties to the Rome Statute of the International Criminal Court, and its Prosecutor has opened investigations in several African countries. The Special Court for Sierra Leone initiated proceedings against the former President of Liberia, and the African Union has made it clear that it will not tolerate grave violations of international humanitarian law.

C. Post-Conflict Peace-building [...]

8. Human Rights [...]

63. On 2 May 2007, the International Criminal Court issued warrants of arrest for crimes against humanity and war crimes against the former Minister of State for the Interior of the Government of the Sudan, the Minister of State for Humanitarian Affairs and the leader of the Janjaweed militia. On 22 May 2007 the Prosecutor of the International Criminal Court announced the decision to open an investigation in the Central African Republic after the Government had referred the situation to the Office of the Prosecutor on 22 December 2004. A breakthrough occurred on 4 June 2007 when the trial of former Liberian President Charles Taylor began in The Hague, with the Government of the Netherlands and the International Criminal Court facilitating the conduct of the trial by the Special Court for Sierra Leone.

Civil and Political Rights including the questions of independence of the Judiciary, administration of Justice and Impunity: Note by Secretary-General, A/62/207, Agenda Item: 70(b), 6 August 2007

VII. International Justice

A. International Criminal Court [...]

46. As a judicial institution that complements national courts and does not exclude them, the International Criminal Court has the advantage of being able to undertake investigations and prosecute and try those chiefly responsible for war crimes, crimes against humanity and acts of genocide where the national authorities are incapable or unwilling to do so.

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48. The ratifications in September 2006 of the Rome Statute to the Court by the Governments of Chad and Montenegro are extremely encouraging. However, the signing of bilateral agreements on immunity between the United States and the States Parties to the Rome Statute of the Court in

order to remove United States citizens from the jurisdiction of the Court is of concern to the Special Rapporteur.

49. With regard to his continued monitoring of developments at the Court, the Special Rapporteur welcomes the progress made in each of the investigations being carried out, which he deals with below.

50. On 17 March 2006, Thomas Lubanga Dyilo of the Democratic Republic of the Congo, who is the leader and founder of the Union des patriotes congolais, was arrested and surrendered to the International Criminal Court because of the alleged commission of the following war crimes: (a) enlisting children under the age of 15; (b) conscripting children under the age of 15; and (c) using children under the age of 15 to participate actively in hostilities.

51. On 29 January 2007, Pre-Trial Chamber I of the Court had sufficient evidence to confirm the charges presented by the Prosecutor and to proceed to trial. Accordingly, Mr. Lubanga's case is the first to come before the judges of the Court.

52. The Special Rapporteur singles out for mention the cooperation of the Democratic Republic of the Congo, the Security Council of the United Nations and the States Parties to the Rome Statute, without which the surrender of Mr. Lubanga and his appearance before the Court would not have been possible. He also regards as positive the decisions adopted by Chamber I which enabled the four victims to participate in the trial of Mr. Lubanga.

2. Darfur, Sudan

53. As emphasized by the Special Rapporteur in his previous reports, in March 2005 the Security Council referred the case of Darfur to the Prosecutor of the International Criminal Court, in conformity with article 13, paragraph (b), of the Statute. In June 2005, the Prosecutor formally initiated investigations into the crimes committed within the framework of the armed conflict between the Sudanese security forces and the Janjaweed militia against organized rebel groups, including the Sudanese Liberation Army and the Justice and Equality Movement.

54. As a result of this investigation, the Prosecutor considered that there were sufficient grounds for believing that Ahmad Muhammad Harun, formerly Minister of the Interior and currently Minister of Humanitarian Affairs of the Sudan, and Ali Muhammad Ali Abd-Al-Rahman (Ali Kushayb), leader of the Janjaweed militia, were criminally responsible for the commission of crimes against humanity and war crimes in Darfur in 2003 and 2004 and therefore requested Pre-Trial Chamber I to issue the necessary summonses.

55. In the light of the evidence referred by the Prosecutor, the Chamber concluded that there were sufficient grounds for considering that Ahmad Harun, by virtue of his position, not only was aware of the crimes committed against the civilian population and the methods used by the Janjaweed militia but also had probably encouraged the commission of such acts. It also concluded that there was sufficient evidence to consider that Ali Kushayb had recruited, established and armed the Janjaweed militia, deliberately contributing to the commission of crimes against the civilian population, and that he had participated personally in some of the

attacks. The evidence collected also indicated that the two had probably acted together — and with others also involved — as part of a systematic and organized plan whose aim was to attack the civilian population in Darfur. Believing that the two men would not appear voluntarily before the Court, the Chamber decided to issue two arrest warrants containing charges for, inter alia, persecution, murder, rape and other forms of sexual violence, forcible transfer, pillaging, destruction of property, inhumane acts and torture.

56. The Special Rapporteur expresses his concern about the lack of cooperation from the Government of the Sudan and the lack of a relationship agreement between the Court and the African Union, a circumstance which seriously hampers the investigations and puts at risk the appearance of the suspects before the judges of the Court.

3. Uganda

57. On 29 July 2004, at the request of the Government of Uganda, the Prosecutor of the International Criminal Court determined that there was reasonable basis to open an investigation into the crimes allegedly committed in northern Uganda by the leaders of the Lord's Resistance Army.

58. The Special Rapporteur expresses concern that, more than two years after the issuance of the warrants of arrest, none of the five suspects have been detained or surrendered to the Court.

59. On 29 June 2007, the Government of Uganda and LRA signed the third phase of a peace agreement, pursuant to which they agreed to establish a commission to investigate the potential war crimes allegedly committed by both sides and to adopt of a procedure, in keeping with tribal customs, to deal with rebels accused of war crimes. However, as a prerequisite for the signature of a comprehensive peace agreement, the senior leaders of LRA have called on the Government of Uganda to ask the International Criminal Court to withdraw the arrest warrants it had issued. In that connection, the Prosecutor of the Court noted that, while no formal request to that effect had been made, “peace and justice should continue to be viewed as mutually reinforcing objectives”. The Special Rapporteur draws the attention of the Government of Uganda and LRA to the need to reach an agreement that precludes any type of amnesty for war crimes, crimes against humanity, genocide and grave violations of human rights, thereby striking a balance between the need to see justice done and the need to achieve lasting peace in the region.

4. Central African Republic

60. On 22 May 2007, the Prosecutor of the International Criminal Court announced his decision to open an investigation in the Central African Republic, at the request of the country's Government, into alleged crimes committed during the most violent period of the armed conflict between the Government and the rebel forces in 2002 and 2003. The Court of Cassation — the country's court of highest instance — subsequently confirmed that the national justice system was unable to carry out the proceedings necessary to investigate and prosecute the alleged war crimes and crimes against humanity, thereby enabling the International Criminal Court to hear the case in accordance with the principle of complementarity. This is the first time that the Court

has opened an investigation in which allegations of sexual crimes — committed specifically against women — outnumber alleged killings.

Conclusions and Recommendations

71. The Special Rapporteur urges the international community to support the work of the International Criminal Court by ratifying its Statute and signing cooperation agreements in order to ensure that the perpetrators of perverse crimes, such as war crimes, crimes against humanity and acts of genocide, are brought to justice and no longer go unpunished. In this connection, he encourages, in particular, the African Union to sign a relationship agreement with the Court.

Report of the Special Representative of the Secretary-General for Children and Armed Conflict, A/62/228, Item 68 (a) of the provisional agenda, 13 August 2008

III. Significant developments for ending impunity and delivering protection

Application of international child protection standards

13. The most prominent developments include the confirmation by the International Criminal Court of the charges against Thomas Lubanga Dyilo, founder and leader of the Union of Congolese Patriots in the Ituri region of the Democratic Republic of the Congo, for the conscription and enlistment of children under the age of 15 and the use of children for active participation in hostilities. The Office of the Special Representative is preparing to file an amicus curiae brief in support of this case. The International Criminal Court has also issued arrest warrants for five senior members of the Lord's Resistance Army, including its leader, Joseph Kony, who is charged with 33 counts of war crimes and crimes against humanity, including the forcible enlistment and use of children under 15 in hostilities.

Legal and normative framework, instruments and standards

44. The prosecution of crimes against children has advanced significantly. In 1998 the Rome Statute of the International Criminal Court established a vital tool to address impunity by codifying grave violations against children. The Court has charged Ugandan and Congolese commanders with recruiting and using children in hostilities. [...]

47. Vital progress on child participation in justice processes has been made. The International Criminal Court precluded the prosecution of children and adopted child-friendly procedures and protective measures on the participation of children as witnesses.

Situation of human rights in the Democratic People's Republic of Korea: Note by the Secretary-General, A/62/264, Item 72(c) of the provisional agenda, 15 August 2007

E. Responsibility: rights concerning the responsibility of the State authorities to protect human rights and freedoms, and related accountability

51. While the study is aimed primarily at State responsibility towards its people, it also points to the individual criminal responsibility which may ensue from crimes against humanity. The

question is elaborated upon extensively in the Statute of the International Criminal Court; there is already copious jurisprudence on the issue, from various ad hoc international criminal tribunals, such as the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. Of relevance is article 7 of the Rome Statute, which lists a number of acts classified as crimes against humanity, including murder, deportation or forcible transfer of population, torture, enforced prostitution, persecution against any identifiable group or collective on political, and other grounds, and enforced disappearance of persons.

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States between 1 January and 31 December 1994: Note by the Secretary-General, (A/62/284 * S/2007/502), Agenda Item: 74, 21 August 2007

(b) Interlocutory appeals: most significant decisions

57. The Appeals Chamber found no error in the Trial Chamber's decision to distinguish a pretrial decision of the International Criminal Court, which prohibited the practice, as it was not binding on the Tribunal. The Appeals Chamber further found that the Trial Chamber's definition of acceptable witness proofing was consistent with the approach approved by the Appeals Chamber in the Gacumbitsi appeal judgement.

Report of the Secretary-General on the Work of the Organization, A/62/1 (Supp), Agenda Item: 109, 31 August 2007

IV. Human Rights, the Rule of Law and Humanitarian Affairs

Rule of Law

82. The Special Court for Sierra Leone commenced the trial of Charles Taylor and rendered two historic judgments which convicted five defendants of war crimes, crimes against humanity and, significantly, the conscription of child soldiers as a violation of international humanitarian law. As concerns the cooperation between the United Nations and the International Criminal Court, I will continue the policy of assisting and supporting the International Criminal Court in its endeavours, in all respect for the independent character of that important international institution

Report of the International Criminal Court: Note by the Secretary-General, A/62/314, Agenda Item 76, 31 August 2007

The present report, covering the period from 1 August 2006 to 1 August 2007, is the third annual report of the International Criminal Court ("the Court") submitted to the United Nations. It covers the main developments in the Court's activities and other developments of relevance to the relationship between the Court and the United Nations.

Four situations were before the Court during the reporting period. The Prosecutor continued to investigate the situations in the Democratic Republic of the Congo, Uganda and Darfur, the Sudan, and judicial proceedings took place in each of these situations. On 22 May 2007, the Prosecutor announced his decision to open an investigation into the situation in the Central African Republic.

In the situation in the Democratic Republic of the Congo, the Court confirmed charges of war crimes against Mr. Thomas Lubanga Dyilo and his case was referred to trial. In the situation in Darfur, the Sudan, the Court issued warrants of arrest for two individuals for war crimes and crimes against humanity.

At the conclusion of the reporting period, six warrants of arrest were outstanding — two in the situation in Darfur, the Sudan and four in the situation in Uganda. The warrants in the situation in Uganda have been outstanding since July 2005. The Court does not have the power to arrest persons. This responsibility belongs to States. During the reporting period, the Court continued to strengthen its cooperation with States, the United Nations and other actors with a view to ensuring the necessary support for the Court to enable it to fulfil the aims of the Rome Statute.

Situation of human rights in the Sudan: Note by the Secretary-General, A/62/354, Agenda Item: 70(c), 24 September 2007

Report of the Special Rapporteur on the situation of human rights in the Sudan

Summary

3. Impunity also remains a serious concern in all areas. The Special Rapporteur calls on the Government of National Unity and the Government of Southern Sudan to investigate all reports of human rights violations with transparency, make the reports of the investigative committee public, bring the perpetrators to justice and promote the rule of law.

II. General Situation

A. International legal framework

6. The Sudan is a signatory to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to the Rome Statute of the International Criminal Court, and this year it signed the Convention on the Rights of Persons with Disabilities. Thus, the Sudan is also bound to refrain from acts which would defeat the object and purpose of these instruments.

IV. Darfur

45. The situation in Darfur was transferred to the Prosecutor of the International Criminal Court by Security Council resolution 1593 (2005) of 31 March 2005. After two years of criminal investigation, on 27 April 2007 the Pre-Trial Chamber of ICC issued warrants for the arrest of Ahmad Harun and Ali Kushayb. The Special Rapporteur is concerned that the Government of

the Sudan has not cooperated with ICC or investigated the charges of war crimes and crimes against humanity against the accused at the national level.

XI. Recommendations

87. The Special Rapporteur recommends that:

i. Government of National Unity

(g) Fully cooperate with the International Criminal Court and the international community to arrest the people who are accused of war crimes and crimes against humanity.

i. Ratify the remaining international instruments for the protection of human rights, including the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Rome Statute of the International Criminal Court;

United Nations Programme of Assistance in the teaching, study, dissemination and wider appreciation of International Law: Report of the Secretary-General, A/62/503, Agenda Items: 79, 25 October 2007

II. Implementation of the Programme during the biennium 2006-2007

A. Activities of the United Nations

1. Activities of the Office of Legal Affairs

(a) Codification Division

Activities: International Law Fellowship Programme and regional courses

16. In the framework of the 2006 and 2007 Fellowship Programmes at The Hague, study visits were arranged for the participants to the International Court of Justice, the Permanent Court of Arbitration, the International Criminal Court and the International Tribunal for the former Yugoslavia.

2. Activities of the United Nations Office at Geneva: International Law Seminar

51. In 2006, the following lectures were given by members of the Commission: 'Unilateral acts' (V. Rodríguez Cedeño); 'Diplomatic protection' (J. Dugard); 'The Darfur case before the International Criminal Court' (D. Momtaz) [...]

52. In 2007, the following lectures were given by members of the International Law Commission: 'Responsibility of international organizations' (G. Gaja); 'The International Criminal Court Statute: a step forward in international law' (P. Escameia).

Revised estimates relating to the proposed programme budget for the biennium 2008-2009 under section 1, Overall policymaking, direction and coordination, section 3, Political affairs, section 28D, Office of Central Support Services, and section 35, Staff assessment, related to the strengthening of the Department of Political Affairs: Report of the Secretary-General, A/62/521, Agenda Item: 128, 2 November 2007

Subprogramme 3: Security Council Affairs

311. The addition of the requested posts would also allow the Security Council Affairs Division/Security Council Subsidiary Organs Branch to further its work on an information management system to serve as a repository of all relevant source data assembled by the various panels of experts. Although the expert groups would undoubtedly benefit from such a system, its ultimate purpose is to provide a safe and structured archive for data on sanctions implementation called for by the Council. Even if the mandate of a given expert group comes to an end, the need to maintain and protect the data does not. In such cases, the Secretariat becomes the custodian of those archives and must be in a position to react to future requests for access to such information, which could come from other expert groups, Member States, or even international tribunals, such as the International Criminal Court. All of these activities are integral to the effective operation of the Security Council Affairs Division/Security Council Subsidiary Organs Branch, and thus additional regular budget posts would be required to deliver this optimal level of service.

Conditions of Service and Compensation for Officials other than Secretariat Officials: Members of the International Court of Justice and Judges and AD LITEM Judges of the International Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda: Report of the Secretary-General, A/62/538, Agenda Item: 128, 8 November 2007

C. Summary of the Arguments presented by the International Court of Justice in the review of remuneration and retirement benefits

4. Recommendations

70. Since the members of the Court perform their duties in the Netherlands and incur their expenditure mostly in euros, it would seem reasonable to fix their salaries directly in euros, the official currency at the seat of the Court. The situation of the members of the Court is comparable to that of the judges at the European Court of Human Rights in Strasbourg, the Court of Justice of the European Communities in Luxembourg and the International Criminal Court in The Hague.

Children and Armed Conflict: Report of the Secretary-General, A/62/609, Agenda Item: 66 (a), 21 December 2007

II. Cross-cutting issues of concern

8. It is imperative that perpetrators of acts of rape and other sexual violence which leave a long-term, devastating impact on the victims are prosecuted in accordance with the gravity of such crimes. The recent decision of the International Criminal Court to open an investigation in the Central African Republic on allegations of rape and other sexual crimes committed in the context of armed conflict between the Government and rebel forces is an important step towards that end. [...]

12. Since the last reporting period, important precedents have been set to end impunity for crimes against children, particularly the recruitment and use of children by Government forces or armed groups. These include the confirmation of charges by the International Criminal Court against Thomas Lubanga Dyilo, founder and leader of the Union of Congolese Patriots in the Ituri region of the Democratic Republic of the Congo, for the conscription and enlistment of children under the age of 15 and the use of children for active participation in hostilities and the arrest warrants issued by the Court for five senior members of the Lord's Resistance Army (LRA), including its leader, Joseph Kony, who is charged with 33 counts of war crimes and crimes against humanity, including the forcible enlistment and use of children in hostilities. Furthermore, for the first time, a former head of State, Charles Taylor of Liberia, is undergoing trial in The Hague before the Special Court for Sierra Leone for 11 counts of war crimes and crimes against humanity, including conscripting or enlisting children into armed forces or groups and using them to participate actively in hostilities. Sentencing by the Special Court for Sierra Leone of Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu of the Armed Force Revolutionary Council and the conviction of Allieu Kondewa of the Civil Defence Forces militia for the recruitment and use of child soldiers send an important message that such crimes against children will not be tolerated and that those who engage in the practice will be brought to justice. Notwithstanding international efforts, national authorities must also promptly.

VI. Recommendations

166. Member States concerned should take effective action to bring to justice individuals responsible for the recruitment and use of children and other grave violations against children through national justice systems. The Security Council is encouraged to refer to the International Criminal Court, for investigation and prosecution, violations against children in armed conflict that fall within its jurisdiction.
