



## **Speech of the President of the Assembly of States Parties, Mr. Sidiki Kaba, fifteenth session of the Assembly of States Parties, 16 November 2016**

Ladies and Gentlemen,

1. I would like to make mention of two historic moments in the long and painful process of maturation of international justice.

### **A. From Nuremberg to Rome**

2. This Eternal City in the history of humanity is the place where humanity created the first international criminal court, set up to try the most high-ranking individuals believed responsible for having perpetrated crimes which offend the conscience of the world, namely, war crimes, crimes against humanity, genocide and crimes of aggression. This seemingly ordinary day – 17 July 1998 – raised an extraordinary sense of hope for justice and peace for every individual person and for all the peoples of the world.

### **B. From New York to The Hague**

3. Another historic moment was shared with Your Royal Highness Prince Zeid, in the chamber of the Economic and Social Council of the UN, at the session you presided over in which it was announced that the threshold of 60 ratifications had been crossed, thereby signalling the entry into force of the Rome Statute. That memorable sunny April day in 2002 was marked by a great wave of emotion which swept through the chamber to the sound of rapturous applause. That day, a utopian ideal had become a real and tangible reality which would, from that point onwards, need to be combined with international relations. Why has this Court suddenly come under such virulent attack, criticised for rendering justice that is partial, selective, discriminatory and even racist and unequal?

4. Today, a strong sense of injustice is being felt throughout the African continent, as many Africans perceive the ICC to be an instrument of judicial imperialism which seeks to punish Pan-African leaders. In these last few years, this perception has resulted in an almost permanent strain in the relations between Africa and the ICC. It has developed into a crisis which must quickly be contained following the withdrawal of three States from the ICC: Burundi, South Africa and Gambia.

5. These withdrawals are regretted but we must acknowledge that they are acts of sovereignty by these States – States which freely acceded to the Rome Statute, and which possess the sovereign right to withdraw from it. Let me make this solemn appeal to these States: Do not leave the ICC. Within the Assembly of States Parties, each of these countries has an important contribution to bring to bear: the prevention and non-recurrence of mass crimes.

6. I wish to tell them that they have been heard, as have those other States which have remained within the fold and which also demand equal justice for all without any discrimination on the basis of whether a State may be weak or strong, rich or poor. This means that we need to take action in the following five areas – we must:

(a) Work towards achieving the universality of the Court so that this principle of universality is transformed from myth to reality, ensuring effective universal justice which gives all victims in the world, wherever they may be, the hope of justice thereby serving to calm the corrosive desire for vengeance. I therefore exhort all States to combine their efforts to convince those States which have not yet done so to accede to the Rome Statute, to defend the Court's values and to promote them in every corner of the world.

(b) Strengthen complementarity so that justice can be rendered *in situ* through effective and efficient legal systems, which adhere to international standards and safeguards. For – and let me repeat this once more – the ICC is a court of last resort that is complementary to national jurisdictions. If every State prosecuted the crimes listed under the Statute, the ICC would have less work. But it would remain most valuable and necessary as a court which answers the needs and the legitimate quest for justice of victims who are often abandoned to their tragic fate.

(c) Reform the current system of world governance (with its roots in the Yalta conference), which grants the right of veto to five major powers, allowing them to exercise this right according to their own geostrategic interests, thereby creating a two-tier justice system. The power of veto should not be considered a privilege but, rather, a heavy responsibility. It should be restricted in instances involving mass crimes. Otherwise African nationals, as per all other peoples in the world, will fail to understand why nationals and leaders of certain States should be exempt from all criminal proceedings whereas others are openly prosecuted. This reinforces the impression that international justice applies double standards, an impression which we must correct before it is perceived as a historical injustice. The ICC is itself a victim of this situation.

(d) Strengthen the financial, personnel and logistical resources of the Office of the Prosecutor so that investigations can be undertaken in all theatres of conflict. Thus, we would no longer see only African nationals before the Court. Trials of nationals from other countries would serve to delegitimize the criticism levelled at the ICC that it is against Africa.

(e) Put in place an innovative communication strategy through social media in order to make sure that the Court is better known and to share its values and principles, aimed at building a peaceful world, offering every individual the chance of a better life based on respect for individual and collective rights. To achieve this, we must include the organs of the Court, the Registry, members of civil society, the media, the press, elected representatives, NGOs... All of the actors making up our social, economic and cultural life. We must share the common idea of justice for all, which corresponds to freedom for all, equal dignity for all and peace for all.

7. Today, the weather outside is gloomy. Should we, by analogy, reflect that the Court is passing through a dark time? We certainly cannot deny that this is a difficult time. But I believe in the virtues of dialogue. We must commit ourselves to engage in this constructive dialogue at this Assembly with a view to finding a dynamic consensus based on respect for and careful consideration of those countries that have voiced legitimate criticisms. We must never forget our duty to defend the independence and integrity of the Court which lie at the heart of its credibility as an institution. The Court needs stronger political and diplomatic support. In a world racked by violent extremism, and facing new pervasive and dangerous threats, it is ever more urgent and necessary to defend the ideal of justice for all, without discrimination, without distinction of any kind, so that we may live our lives in freedom and in peace: sharing a common humanity in a shared planet.

Let me thank you for your kind attention.

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