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**Speech by
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Francophonie**

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la francophonie



President of the Assembly of States Parties,

The Honourable President of the International Criminal Court,

The Prosecutor of the International Criminal Court,

High Commissioner for Human Rights,

“A crime against humanity”, [...], said André Frossard, “is the fact of killing someone for the sole reason that he or she was born, has come into the world; there is no other grievance against him or her, he or she has come into the world against doctrine, he or she has no right to exist.”

And I stand before you today with the unshakeable belief that it is for those millions of men, women and children who have been debased, massacred and deprived of their humanity simply because of their ethnic origin, their race, their religion or their gender that we must fight relentlessly to prosecute, try and sentence those responsible for and those who perpetrate such atrocities.

I stand before you today with the unshakeable belief that the fight against impunity is a duty to humanity, an ethical responsibility and a categorical imperative for all those who believe in the universal nature of the fundamental values of democracy and human rights.

I stand before you today with the unshakeable belief that the necessary response to the ubiquity of crime has to be the universal nature of justice, and that in this regard the International Criminal Court represents a historic step forward in the long march towards the rule of law for international society and that over time it will become a real deterrent and will play a vital role in preventing crises.

It was these beliefs that led me, in my capacity as President of the Republic of Senegal, to campaign fervently for the Rome Statute to be adopted and for my country to become the first in the world to ratify it.

It was these beliefs that led me, in my capacity as Secretary General of la Francophonie, to seek to strengthen the relationship between the International Criminal Court and our organisation which, back in the 1990s, made “effective

justice to guarantee the rule of law” and the fight against impunity in particular, a key aspect of its undertakings, undertakings which were set out in the Declarations adopted by French-speaking justice ministers first in Cairo in 1995 and then again in Paris in 2008, but also in its reference texts which are the Declarations of Bamako and Saint-Boniface.

La Francophonie was there at every stage: supporting member states during the preparatory work on the Rome Statute, raising awareness about ratification, with 54 out of 74 of our member states having ratified the Statute to date, and now strengthening ownership of the Statute by our members through very high level regional training seminars and supporting the ICC in the process of dialogue and discussions with the African Union through joint seminars and also encouraging the various campaigns by civil society for international criminal justice.

And I consider the co-operation agreement signed in September 2012 between the International Organisation of La Francophonie and the International Criminal Court, which goes beyond our convergent views, to be the symbol of a Francophonie community which, more than ever, is mobilised in the fight to combat impunity.

We are all well aware that the International Criminal Court, like international justice, is in its infancy. And we must fight, with everything we have, to remove the remaining barriers, to resolve points of tension which are expressed through dialogue rather than conflict, to make the necessary improvements after being put to the test, with the only limits being universality and the force of principles.

In this regard, the International Criminal Court seems to me to be full of promise, going far beyond its initial purpose. In a system of international relations which is undergoing massive changes and which is seeking a new balance and democratisation, in a global interdependent society which is seeking new governance, regulations and standards, it provides a potential forum for resolving a number of questions, disputes and claims which are currently preventing the international community from being a true society.

Because if there is one cause which deserves every effort to be made to transcend our differences and our immediate interests, if there is one cause which deserves us to succeed in forming a “government of international union”

it is the fight against impunity, because through the victims it is humanity itself, the very essence of humankind, which is under attack.

We must do all we can to ensure ratification continues.

I have in mind the refusal of certain States, some of the most powerful in the world, and which make up over half of the world's population, to take part in this great and noble purpose.

I deplore it all the more since by impeding the universal jurisdiction of the ICC in this way, the universal nature of the protection afforded by universal human rights is impeded.

And we are well aware that the mechanism for referral by the Security Council, which is the only case in which the ICC has universal jurisdiction at the present time, is not entirely satisfactory.

We know full well that we run the risk of seeing the international community refer certain situations to the Court on a case-by-case basis in line with strategic alliances or political considerations. That we run the risk, as Robert Badinter pointed out, of seeing the International Criminal Court "reduced to the status of an permanent *ad hoc* super tribunal."

We must do everything in our power to preserve cultural and legal diversity.

The independence of the ICC depends on it, together with the perception we have of the Court and its efficiency.

As Secretary General of La Francophonie, if I plead for the role afforded to the French language and French speakers within the organs of the Court to be strengthened, it is because I am convinced that it is not by challenging cultural and linguistic diversity that we will come together and that it is not by radicalising our differences either that we will succeed in joining forces.

If I argue in favour of respect for the diversity of legal cultures, it is because I am convinced that the ICC will gain in efficiency and credibility by not pitting the Common Law and Romano-Germanic legal systems against one another but by drawing inspiration from the best of each of the two systems.

We must also make every effort to ensure that the complementarity principle fulfils its potential, because we should recall that it is for States, first and foremost, to try the alleged perpetrators of serious crimes.

In this regard, strengthening, reforming and modernising judicial systems is an ongoing challenge for all States, without exception, but we also know that some systems, despite the efforts made in recent years, are still failing. We need to ask why, whilst at the same time continuing cooperation in legal and judicial areas, as La Francophonie does in its arena. Both the effectiveness of the complementarity principle and the stronger role of the great legal systems at an international level depend on it.

We must, at the same time, deepen discussions on sovereignty and probably update our views on the subject.

Because of the complementarity principle, ratifying the Rome Statute does not mean that sovereignty is renounced or limited in any way; sovereignty must also be reasserted insofar as it guarantees equality between States.

But this is my solemn appeal, can we tolerate the massacre of a people or a section of a people with impunity in the name of sovereignty? Can we tolerate the fact that, as I speak before you now, “a sovereign right to murder” as René Cassin described it, continues to apply?

Finally, we must pay very close attention to the issue of justice in crisis, post-crisis and transition situations.

I want to make the same point today that the attendees of the pan-African preparatory Conference to the Rome Conference hammered home in 1998 with the same insistence: there can be no peace without justice!

That being the case, how can the rights of victims in these complicated processes be addressed? How can justice and mediation efforts be better reconciled?

How can judicial demands be more effectively integrated as part of negotiations?

These and other issues must not allow us to forget that democracy, reconciliation and lasting peace cannot take root and flourish when forgetting and impunity hold sway.

Because covering the embers with ash does not stop the fire from smouldering and choosing to forget along with impunity means taking responsibility for seeing the wounds which have been unable to heal open up again one day.

Ladies and gentlemen,

The International Criminal Court is not like other institutions.

Even though the ICC cannot erase from our memories the millions of victims of crimes of genocide, crimes against humanity, war crimes and crimes of aggression, even though the ICC cannot erase from our memories the darkest side of human nature, for the first time in our history it offers us the permanent possibility to express the best of that same human nature, by prosecuting and trying those responsible for these atrocities, with the aim also of preventing fresh atrocities.

This recent creation is a credit to us, but it also places an immense responsibility on us as far as future generations are concerned; to do all we can to ensure that this permanent court can exercise its jurisdiction increasingly effectively.

Such a responsibility is first and foremost incumbent on States. Although I am not forgetting the vital role played by lawyers, non-governmental organisations and human rights activists in the creation of the Court, it is for States to ensure that the ICC can exercise its mandate and keep all its promises.

The International Criminal Court needs States, all States, to cooperate, it needs all international and regional organisations to cooperate because every region and every continent must be a stakeholder in this long journey. And I hope, in this regard, that the African continent, which has paid such a heavy toll in terms of crises and conflicts but at the same time has played a vital role for the entry into force of the Rome Statute, continues resolutely to undertake to strengthen this Court.

Ladies and gentlemen,

Let us always bear in mind, especially in this special place where the stakes are so high, let us always bear in mind, as Kierkegaard said, “that it is not the road that is hard but that hardship is the road”. Let us always bear in mind that hardship provides the context for the greatest causes of humanity.

Thank you.