



**STATEMENT BY HONOURABLE UTONI NUJOMA MINISTER OF
JUSTICE OF THE REPUBLIC OF NAMIBIA, AT THE GENERAL
DEBATE OF THE 13TH SESSION OF THE ASSEMBLY OF STATES
PARTIES TO THE ROME STATUTE OF THE INTERNATIONAL
CRIMINAL COURT**

10 DECEMBER 2014

NEW YORK, USA

(Check Against Delivery)

Mr. President,

Allow me to congratulate you on your election and also on the way you are steering the work of the 13th session of the Assembly. Similarly, I wish to congratulate the outgoing President for having successfully steered the work of the Assembly since its 12th Session. I wish to assure you of my country's full support and cooperation.

For the Court to be effective and successful, universal ratification of the Rome Statute is fundamental.

We have taken note of the good progress made so far, as the number of States Parties continues to increase, realizing the full implementation of, and the universal participation in the Rome Statute. In this regard, we congratulate and welcome all those countries who have recently joined as members of the Court. Likewise, we call upon those that have not yet joined, to do so.

While we welcome the positive role played by non-states parties in the activities of the Court, we urge them to underscore their commitment to the suppression of international crimes by joining the Rome Statute of the ICC and promote its effectiveness and credibility.

Mr. President,

The purpose for the establishment of the ICC is for the benefit of victims of serious crimes around the world. African States Parties constitute the biggest bloc in the membership of the Court principally because of the trust we have placed in the Court in being able to address serious international crimes which were taking place on our continent. We particularly welcome the primary focus of the Rome Statute on the rights of victims of crime and measures to provide some form of reparations. This emphasis on the rights of victims of crime has inspired similar reforms in many of our domestic jurisdictions.

The cooperation of States Parties with the Court is important to the usefulness and integrity of the Court. States Parties have an obligation to "co-operate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court".

The extent to which States render co-operation to the Court depends on the manner in which the Court came to assume the jurisdiction in the situation in question. Where referrals have been made by State Parties, co-operation from such States has largely been forth-coming.

However, with regard to referrals by the Security Council, State co-operation in effecting arrests mandated by the Court pursuant to such referrals, has largely not been forthcoming. Non-co operation of some states has been informed by different considerations about the relative balance between the pursuit of justice and peace making efforts in conflict situations. The referral of situations to the ICC by the Security Council has proven to be highly political and controversial and also enjoy the lowest degree of state co-operation in the enforcement of decisions of Court.

This aspect can be ascribed to the fact that the Security Council in its current form is not viewed to be representative and democratic in its decision making.

Mr. President,

As the primary enforcer of international peace and security, the Security Council was conferred the power to ensure that there is no impunity for international crimes. The prospect that a non-state party may be subjected to the Court's jurisdiction underlines the commitment of the international community that there should be accountability for international crimes, where ever they are committed.

The problem which has been experienced in practice is that referrals could be politically-motivated, which might result in certain situations being referred while others may be blocked by the veto-wielding states. This leads to paralysis and does not contribute to ending conflicts around the world. It is against this background that greater understanding and consideration of the concerns of the African Union in calling for amendments to Article 16 of the Rome Statute should be appreciated.

Mr. President,

The International Criminal Court should be the Court of last resort in the exercise of jurisdiction over crimes within its jurisdiction. The primary responsibility to investigate and adjudicate should be left to State Parties and their domestic institutions.

In this regard, we welcome the Court's efforts to promote the adoption of implementing legislation and the review of domestic laws to facilitate different forms of co-operation with the Court when it exercises complementary jurisdiction, in respect of international crimes. An increase in the availability of domestic avenues for the prosecution of international crimes, will not only reduce the number of cases coming before the Court, but will contribute to the reduction of international crimes. As States Parties, it is our responsibility to play our respective roles to investigate and try international crimes in our domestic jurisdictions.

As the Court grapples with challenges of enforcing international humanitarian and human rights law and as it tries to fend off accusations of bias in the selection of situations for investigation and prosecution, we recommend that the Court should recognize a role for regional mechanisms in the investigation and prosecution of Rome Statute crimes.

Namibia would support strengthening the jurisdiction of regional human rights adjudicative mechanisms on condition that such jurisdiction is based on principles which are consistent with the Rome Statute. It will be necessary to subject such complementarity efforts to the admissibility proceedings before the ICC to determine whether a case has been made to find that

such proceedings are genuine and that fair procedures are available to allow proper adjudication of the issues.

In conclusion, Mr. President, the International Criminal Court relies on States Parties to effectively execute its mandate. I assure you of Namibia's preparedness to cooperate with the Court in the execution of its mandate.

I thank you,