



KEYNOTE ADDRESS BY
HIS EXCELLENCY LT. GENERAL
SERETSE KHAMA IAN KHAMA,
THE PRESIDENT OF THE REPUBLIC OF BOTSWANA,
DURING THE OPENING PLENARY OF THE 10TH
SESSION OF THE ASSEMBLY OF THE STATES
PARTIES TO THE ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT (ICC)
NEW YORK,
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Check against delivery

- UN Deputy Secretary General, Dr. Asha – Rose Migiro;
- President of the Assembly of States Parties to the Rome Statute, Ambassador Tiina Intelmann;
- Outgoing President of the Assembly of States Parties to the Rome Statute, Ambassador Christian Wenaweser;
- Honourable Ministers;
- President of the ICC, Judge Sang-Hyun Song;
- Prosecutor of the ICC, Mr. Luis Moreno-Ocampo;
- Chair of the Board of Directors of Trust Fund for Victims, Ms. Elizabeth Rehn;
- Distinguished Delegates;
- Ladies and Gentlemen;

1. I am delighted to be here at the United Nations Headquarters.
2. Allow me to begin by thanking you for your kind invitation for me to be your Guest on this occasion of the 10th Session of the Assembly of States Parties to the Rome Statute of the International Criminal Court.
3. It is also a pleasant coincidence that the International Criminal Court has itself been in existence for almost 10 years now.
4. Let me therefore convey my most sincere congratulations to you Madam President, and to all States Parties to the Rome Statute on this achievement.
5. May I take this opportunity to pay tribute to our outgoing Prosecutor Mr. Luis Moreno-Ocampo for his selfless determination and perseverance, sometimes against great odds, in pursuit of justice and the rule of law. You discharged your duties with excellence in a new and uncharted area of human endeavour, making your job not only difficult but sometimes unappreciated. We extend our gratitude and appreciation to your country Argentina, for making you available to serve the international community.

6. Whilst on the subject of congratulations, allow me to congratulate Ms. Fatou Bensouda on her unanimous endorsement by the ICC State Parties as the sole candidate for the position of the Prosecutor of the ICC, thus paving the way for her nomination and appointment.
7. Let me pledge my country's continued support to the next Prosecutor and the whole ICC team as they carry out their responsibility to help defend the voiceless and contribute to the building of a better world for humanity.

Madam President,

8. It is worth recalling that the ICC was created in 2002 as the first permanent international criminal tribunal, tasked with investigating and prosecuting war crimes, crimes against humanity and acts of genocide.
9. This was a culmination of decades of efforts to promote international criminal law, precipitated by the events of the 1990's when, in the midst of the war in Bosnia, the UN Security Council set up the International Criminal Tribunal for the Former Yugoslavia (ICTY). Later, in the wake of the 1994 genocide in Rwanda, the International Criminal Tribunal for Rwanda (ICTR), was also established, followed by the Special Court for Sierra Leone.
10. The UN Security Council gave these Ad hoc Tribunals the mandate to investigate and prosecute.
11. It was on account of the relative success of these Tribunals that momentum was generated for the creation of a permanent international criminal tribunal in the form of the ICC. The creation of the ICC therefore marked a significant milestone in the advancement of international criminal jurisprudence, as well as strengthening of the international rule of law.
12. My candid assessment is that, the Court has done fairly well in its short period of existence, given its resource limitations, coupled with the increasingly complex and challenging environment in which it operates.

Madam President,

13. I want you to know the reason why, we as Botswana acceded to the Rome Statute and why I believe other states who have not done so should do so. It was a reflection of our abiding faith in the viability of the mandate of this Court, which in our view, is the only hope for redress for the multitudes of victims of atrocities which are committed by callous regimes in several parts of the world.
14. We have taken a clear stand on this matter because we believe that victims of heinous crimes have as much right to protection and justice as anyone else, even where the perpetrator is a State. We are also convinced that the ICC is the only definitive international check against such unbridled abuses if states are either unwilling or unable to do so themselves.
15. We feel that the ICC helps to send a strong message that no one, irrespective of their station in life, is above the law. We are also of the view that it is important to dispel the notion that governments and their leaders can do as they please, and that such people should know there will be consequences for their brutal actions against the innocent as we have recently seen with the case of the former Ivory Coast leader. Therefore the ICC plays an important role as a deterrent against any temptation to engage in such crimes.
16. Even though the ICC's jurisdiction is fairly broad, it has limitations in that it largely confines the Court to crimes committed in countries that have ratified the Rome Statute.
17. The only window of opportunity for the ICC's intervention in the situations involving Non-States Parties is therefore through referral by the UN Security Council or if the authorities of the country concerned voluntarily invite the ICC's intervention.
18. This limitation on the jurisdictional remit of the Court seriously undermines its ability to pursue justice where ever and when ever serious crimes are committed.

19. This is something which I feel the Assembly of States Parties needs to address as a matter of urgency. Justice for victims of crime should be seen to be done irrespective of whether their countries choose to sign up to the Rome Statute.
20. The second major hurdle is that the efficiency and effectiveness of the Court depends on the cooperation it receives from governments.
21. The ICC relies on State authorities' cooperation and assistance for example, to arrest suspects, gather evidence and transfer witnesses. Some governments have regrettably done nothing or very little to give the Court the kind of support it needs in order to effectively and successfully execute its mandate.
22. In Africa it is important to recall that many countries were instrumental in the process leading to the creation of the ICC. It is also worth noting that Africa constitutes the largest single regional bloc within the ICC membership being 33 of the 119 countries that have ratified the Rome Statute to date and among the first group of countries to ratify the Statute.
23. In addition, 5 of the 18 Judges of the ICC are African and with reference to my earlier remarks, the ICC will likely have an African as its next Prosecutor. Therefore Africa and the ICC should enjoy a special and mutually supportive relationship.
24. It is also important to recall that respect for the rule of law is one of the founding principles of the Constitutive Act of the African Union. This behoves leaders to govern justly and to respect human dignity, freedom, democracy and human rights.
25. Against this background, I must express disappointment that, while African Members of the ICC consistently express support for the Court during the annual sessions of the Assembly of States Parties such as this one, there has been little evidence of such support in practice. Instead, most African States Parties have tended to shy away from publicly defending the credibility and integrity of the Court.

26. I therefore wish to register deep concern at the increasing failure by such States Parties to honour their obligations under the Rome Statute. This has the potential to undermine the integrity of the Statute and the efficiency of the Court.

Madam President,

27. I am mindful of the perception that the ICC unfairly targets African countries.

28. The reality is that atrocious human rights abuses and other serious crimes that merit ICC's attention have and continue to be committed in Africa. And in the majority of situations, it is Africans themselves who invite the intervention of the Court.

29. The irony of the situation is that these crimes are perpetrated, in most cases, by the very leaders who are supposed to protect the people.

30. The question is, how long should any victim be subjected to indignity and suffering while the perpetrator of the crime enjoys the protection of power?

31. We in Africa have experienced many cases of the brutal slaughtering of innocent civilians including as recently as in Libya and elsewhere outside Africa as in Syria. We should therefore have no reason to protect or be sympathetic to perpetrators of heinous crimes such as these when they are called to account for their criminal actions.

32. The African Union, including some African State Parties, have, in specific instances, opposed action against some indicted Heads of State.

33. I specifically note with regret that at the recent Summit held in Malabo, Equatorial Guinea in June 2011, the African Union formally decided not to cooperate with the ICC over the indictments and arrest warrants issued against some leaders.

34. This decision is a serious setback in the battle against impunity in Africa and undermines efforts to confront war crimes and crimes against humanity which are committed by some leaders on the continent.

35. Such a move also places Africa on the wrong side of history. It is a betrayal of the innocent and helpless victims of such crimes.

36. Africa's support for the ICC will not only help to reduce the incidence of impunity and grievous crimes but will also go a long way towards enhancing democracy and good governance on the continent.

37. We need to have the political will and the moral courage to hold accountable, without fear or favour, anyone in authority – including a sitting Head of State - when he or she is suspected of having committed crimes against innocent people.

Madam President,

38. The ICC is a credible judicial body. It is an international tribunal where fair trial and due process is guaranteed.

39. And perhaps more importantly, the ICC should not be seen in isolation in terms of its global purpose. In its mission to bring an end to impunity, it is a mechanism within a larger international human effort to promote good governance, accountability, respect for human rights the rule of law, democracy, and political stability. The ICC is therefore an important player in the overall human quest for global peace and security and prosperity for mankind.

40. It is therefore important that leaders should stand up firmly in defence of justice and in defence of the ICC. We should strongly and proudly support its mission and mandate.

Madam President

41. There is an expectation as well as a desire on the part of the victims of atrocities worldwide to see the ICC succeed in its noble mission. As we do expect the UN Security Council to deliver on its mandate in leading the International Community to bring about peace and security by providing such leadership to end conflicts in areas such as Syria.

42. It is disappointing and counter productive to say the least when one or two of the permanent members constantly fail to allow robust resolutions to be passed due to political differences with others on the Council and thus fail to address the real issue at hand.

43. Let me in concluding reiterate my appeal to all States to support victims by promoting judicial and other efforts to end impunity, as well as promoting accountability for serious crimes under international law. This should include strengthening support and collaboration with the ICC, and I call upon those countries not as yet State Parties to sign up.

44. I further wish to appeal to State Parties to fully cooperate with the Court in its efforts to bring to justice suspected perpetrators of war crimes and crimes against humanity.

45. I wish to underscore the need for States Parties to demonstrate their commitment to the protection of innocent civilians by taking steps to ensure that heinous crimes under international law are adopted under national law and also investigated.

46. Those responsible must be brought to justice in their domestic courts in accordance with internationally recognised fair trial standards and practices. This is what the principle of complementarity requires.

Madam President

47. Let me assure you that Botswana remains committed to complying with her obligations under the Rome Statute and that we are ready, within our limited resources, to support the ICC.

48. On that note, allow me to conclude by wishing you success in your deliberations during the 10th Assembly of States Parties to the ICC.

I thank you for your attention.