



ICC Assembly of State Parties twelfth session
Statement to the General Debate

21 November 2013

AI Index: IOR 53/003/2013

Thank-you Madam President,

In its decision of October 2013, the Assembly of the African Union raised a number of concerns about the work of the ICC and key principles of the Rome Statute, which – as we have seen- are at the fore of the Assembly’s discussions, as well as in its negotiations on amendments. Amnesty International would like to provide the following comments.

First, we are concerned about claims that senior government officials should be exempt from prosecution by the ICC while they hold office as this goes against the fundamental tenet in Article 27 that no-one, regardless of their status, can be exempt from prosecution before the Court. If such an exemption existed, senior government officials would be able to commit crimes under the jurisdiction of the ICC with impunity while they hold office and they may seek to hold on to positions of power at any cost. Amnesty International calls on all states parties to strongly support the principle in Article 27 and to oppose any efforts to weaken it.

Second, arguments that the prosecution of a sitting head of state could undermine peace, stability and reconciliation ignore the devastating impact that impunity can have following serious political violence, especially on victims and affected communities. States participating in the Review Conference stated in the Kampala Declaration that they are “convinced that there can be no lasting peace without justice and that peace and justice are thus complementary requirements.” It is essential that these important findings are affirmed at this session.

Third, there is no evidence of “the politicization and misuse of indictments against African leaders by the ICC.” All eight of the situations clearly fall within the jurisdiction provided for in the Rome Statute. In fact, seven situations were referred to the ICC by the states directly concerned or the UN Security Council. Only three of the 28 arrest warrants and summonses since 2002 were issued against heads of state.

However, some of the concerns raised by African states do require consideration and the weaknesses in the system should be recognized. There is merit in complaints that powerful states avoid international justice by remaining outside the system and that some use their power to obstruct justice in other situations to protect their own interests.

It is particularly appalling that some members of the Security Council continue to block efforts to refer the situation in Syria to the ICC Prosecutor.

The gaps will close if more states ratify the Rome Statute. Universality should therefore be given a much higher priority by the Assembly.

An increase in the number of states parties on the Security Council in 2014 provides a significant opportunity to address its politicization of international justice.

Amnesty International also recognizes that the ICC should expand its work to all regions of the world. We therefore welcome the Prosecutor's commitment to increasing the transparency of its preliminary investigations and her Office's efforts to promote national investigations and prosecutions. A number of situations, including Afghanistan, Colombia and Georgia, have remained under preliminary examination for many years, despite widespread impunity in those countries. Significant questions also remain about the ICC's jurisdiction over crimes committed in Palestine which must be clarified without delay. We will look with interest to the ICC forthcoming annual report on preliminary examinations for updates on these and other important situations.

Madam President,

In Rome, the vast majority of governments refused to give into pressure from powerful states to weaken the Rome Statute and proceeded to create the first permanent international criminal court on the terms they agreed. States parties must never lose sight of their shared determination and their global leadership of the fight to end impunity, that we hope will one day demand and achieve universal support. It is essential that the supporters of the Rome Statute system remain steadfast in their commitment to the ICC and the fundamental principles they adopted in Rome.

At this session, Amnesty International urges all states parties to engage in meaningful discussions on the concerns raised by the African Union. But it must be clear that the integrity of the Rome Statute cannot be undermined and that there are some lines that cannot be crossed.

Any amendments to the rules must be consistent with the Rome Statute and must not weaken the ICC's ability to respond to impunity where it exists.

Thank you.