

**COALITION FOR THE
INTERNATIONAL CRIMINAL COURT**



**STATEMENT BY
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**AT THE
12TH SESSION OF THE ASSEMBLY OF STATES PARTIES
TO THE ROME STATUTE OF THE INTERNATIONAL
CRIMINAL COURT**

THE HAGUE, 21 NOVEMBER 2013

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Madame President, Excellencies, Leaders of the ICC, Distinguished Delegates, Civil Society Colleagues:

The Coalition's 2500 member organizations are dedicated to defending the Rome Statute and the International Criminal Court. As several government leaders have stated, this session of the Assembly could be the most important for the ICC and the Rome Statute since the treaty entered into force on 1 July 2002. This Assembly will confront some of the most serious political and governance challenges since that historic beginning.

Hundreds of representatives of members of the Coalition are accredited to ASP 12, and several of our members, including leaders of African civil society will be addressing this plenary.

One of the paramount achievements of the ICC treaty was when governments decided that the Rome Statute accountability applies to all persons equally –there should be no immunity for anyone who commits the worst crimes under international law.

The treaty includes extraordinary principles never achieved before and which could not be achieved today, or in fact at any time since July 18, 1998.

These include the establishment of an independent court, independent judges, independent prosecutor, automatic jurisdiction for war crimes, crimes against humanity and genocide, jurisdiction for crimes committed in international and non-international armed conflicts. Indeed in the Rome Statute, the enforced disappearance of thousands of citizens by repressive governments has been added to the definition of crimes against humanity. Other IHL crime descriptions were improved in the Rome Statute, and gender crimes historically specified. The Rome Statute gives unprecedented rights to victims to participate in the trials and as well as rights for reparations. The treaty provides for *proprio motu* powers for the prosecutor.

Underlying the entire treaty is the establishment of the principle of complementarity.

The Rome Statute allows for no reservations, and no immunity for any individual regardless of position or office. The Rome Statute recognizes the authority the UN Charter confers upon the UN Security Council but does not allow the Court to be subordinated or controlled by the Security Council, or by the veto.

All of these tremendous principles are astounding, especially included in one treaty that creates for the nations whose governments ratify the treaty a new system of international criminal justice.

None of these principles is more important than the provision against immunity.

The proposal that the Rome Statute should be amended to exempt heads of state or other high government officials while they are in office is not morally or politically credible –

indeed many have stated today how Article 27 emerges from the Nuremberg principles – can one explain how can governments today suggest amending the Rome Statute so that a future dictator like Hitler would be allowed to continue to murder millions of civilians with impunity because he is a serving head of state? This could be the result of the proposed amendment of Article 27. The ICC is the *'never-again'* court, though it will take many more years to achieve its potential. Thus, while it is important that we address the legitimate concerns of the AU resolutions and the Kenya situation, going backwards on impunity would be the worst course, not only for the ICC, but especially for Africa.

Madame President, the Rome Statute is a beacon of hope for justice for many victims of the most horrendous crimes. As it begins its second decade, all stakeholders in the Rome Statute system must ensure a renewed emphasis on prioritizing and promoting the interests of victims—starting at this Assembly of States Parties. The focus must remain on improving the delivery of meaningful justice to victims of grave crimes through the International Criminal Court.

Helping to restore dignity to victims is central to the Rome Statute. Yet financial constraints, administrative backlogs, a lack of cooperation, and delays in investigations and prosecutions continue to frustrate victims' hopes for redress. States attending this Assembly should recommit to ensuring that the Rome Statute system—including the Trust Fund for Victims—has the political - and financial - backing to truly deliver meaningful justice to victims of atrocities that most of us cannot even begin to imagine. We welcome the inclusion of the first dedicated plenary session on victims' issues, and encourage all states and participants to the ASP to use this session to discuss concrete measures on how to advance the work of the Court in strengthening its mandate on victims.

States should not be distracted by the efforts of some to circumvent the authority of the Rome Statute, particularly when it guarantees fair trial rights. The Assembly should rather stay focused on strengthening the Court's work and impact so that the victims of ICC crimes receive redress.

Madame President, do not the developments overwhelming this Assembly illustrate that there are tremendous needs to improve the efficiency of the ICC to ensure that justice is delivered expeditiously? We welcome the efforts of the newly elected Registrar to improve the efficiency and structure of the Registry.

We also welcome the improvements made by the Prosecutor in the work of her office and hope that the new investigation and prosecutorial strategies, including the development of the policy on the investigation and prosecution of sexual and gender-based crimes, will strengthen the work of the Court overall.

We support the efforts of the Assembly in its Study Group on Governance and we support the efforts to improve the working methods of the Assembly itself.

Improving state cooperation with the Court will also feature as an Assembly plenary discussion. We note the successful efforts this year, including the meetings with State

Parties and the ICC in Nuremburg, Senegal, and Tanzania. Civil society has been urging states to take stronger action when Court decisions are flouted, such as the failures to arrest Sudanese President Omar Al-Bashir and other fugitives. The Coalition also wants the Assembly to adopt a strong policy that would limit states parties to only essential contact with ICC suspects. Further, major reforms of the procedures of UN Security Council are needed, to challenge the failures, unfairness and selectivity of this principal organ of the international legal order. The efforts of many State Parties in the ACT process at the UNHQ could be one of the best initiatives to strengthen the relationship between the ICC and the UN.

However, the Assembly and the Court must consider the need for more comprehensive processes of reform – it is crucial that within the next 5-10 years the ICC is viewed as the being the high-performing institution of international justice essential to its role as the permanent Court, and essential to its ability to confront other serious political confrontations that are certain to arise in the future.

States will hold key elections at the 12th Assembly, by electing one new Judge and members of the CBF. The Coalition wishes to yet again stress the importance of having the highest qualified candidates nominated for these positions of great importance.

Again, let me summarize that the Coalition recognizes that all aspects of the Rome Statute system require constant efforts for improvements and strengthening –from complementarity to referrals to investigations, trials, detention and long-term prevention. We in civil society must also do better. But, undermining the treaty's strongest provisions against impunity and accountability is the absolute worst course. It is the worst course for the ASP and for the African Union, too. Again, the security of hundreds of our member organizations in Africa and millions of victims must not be put in jeopardy.

Madame President, State Parties, while tremendous challenges remain throughout the Rome Statute system, in establishing the ICC as the permanent independent Court, the first ever not controlled by major powers or by powerful leaders, you have created the *never-again court*. This great Treaty, the Court and the Assembly, as described in the eloquent statement by the three previous ASP Presidents yesterday, represents humanity's determined quest for peace and justice throughout the world. We, civil society, will continue to work in partnership to ensure that quest is successful.