

REPUBLIC OF SENEGAL
One People – One Goal – One Faith

**OPENING ADDRESS BY MR SIDIKI KABA,
MINISTER OF JUSTICE OF THE REPUBLIC OF SENEGAL**

**Plenary discussion on cooperation at the twelfth session of the Assembly
of States Parties to the Rome Statute of the International Criminal
Court**

**Subject: Protection of witnesses: strengthening States' support for the
Court**

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The Hague, 22 November 2013

**Ministers and heads of delegation,
President of the Assembly of States Parties,
Your Excellency Ambassador Krutnes, facilitator for cooperation,
President of the International Criminal Court,
Prosecutor of the International Criminal Court,
Registrar of the International Criminal Court,
Representatives of States Parties and Observer States,
Distinguished guests,**

First of all, please accept my sincere thanks for granting me the honour of giving the opening address at this plenary discussion on cooperation at the twelfth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court.

By according me this invitation, you have again paid tribute to Senegal, which was the first country in the world to ratify the Rome Statute of the International Criminal Court, doing so on 2 February 1999.

Ambassador Krutnes, facilitator for cooperation,

It is a great pleasure to stand before you on this solemn occasion and congratulate you most warmly on the remarkable work that you have done during your time in office.

15 years ago, on 17 July 1998, the international community, determined to put an end to the impunity with which perpetrators of crimes were threatening the world's peace and security, took a historic step in the fight against that scourge by adopting the Rome Statute of the International Criminal Court.

Today, despite its young age, the International Criminal Court is the most efficient mechanism at our disposal when it comes to combating such impunity at international level. As such, it is an invaluable source of hope for the millions of victims all over the world who are awaiting and demanding justice.

More than ever before, efficient and effective action to put an end to international war crimes, genocide and crimes against humanity requires the adoption of legislative measures at national level and stronger cooperation with the Court.

That explains why, **in terms of legislation**, Senegal transposed the provisions of the Rome Statute into national law – notably through the revision of its criminal code, which covers crimes against humanity, genocide and war crimes, and the revision of its code of criminal procedure, which includes the principles of universal jurisdiction and the non-applicability of statutes of limitations for crimes.

And **in terms of cooperation**, Senegal, for example, has been involved in major initiatives at both national and regional level in partnership with the Court's various organs.

Indeed, our country actively advocated the ratification of the Rome Statute in several African States, and those countries now make up the largest group within our Assembly.

Similarly, Senegal's capital, Dakar, has welcomed Court authorities on several occasions and hosted various regional seminars on the promotion of the Rome Statute, international justice, and the promotion of women within the Court.

The island of Gorée, off the coast of Senegal – a historical witness to slavery, a crime against humanity – also played host, in June 2013, to the last seminar on the strengthening of national capabilities in the area of witness protection and the sharing of experiences between participants and the Court.

Ambassador,

If we are to demonstrate the sincerity, credibility and effectiveness of international justice, it is essential that witnesses and victims be protected.

With that in mind, Part 6 of the Rome Statute, which concerns trials, dedicates articles 68 and 69 to the protection of witnesses and their participation in proceedings, as well as determining the means by which their testimonies can be gathered.

Under article 68 of the Rome Statute, **the Court must take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of witnesses, having regard to all relevant factors relating to their characters and the nature and circumstances of the crime. These measures must not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.**

The Court's Rules of Procedure and Evidence also provide fundamental guarantees regarding the protection of witnesses before, during and after the trial.

Thus, steps must be taken to ensure the protection of witnesses, both before the Office of the Prosecutor and before the Trial Chamber. The Trial Chamber may permit the giving of viva voce (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts.

As an exception to the principle of public hearings laid down in article 67 of the Statute, the Chambers of the Court may conduct proceedings in camera in order to protect witnesses.

At an institutional level, the Victims and Witnesses Unit in the Court's Registry plays a key role in the protection of witnesses – notably through the Initial Response System, which is

based on an emergency phone line and the implementation of the Court's protection programme.

The Unit has taken steps to identify witnesses and include them in the protection programme and has mobilized the resources required in order to ensure that, where necessary, those who are in danger are resettled in secure locations.

Thus, the various organs of the Court have a joint responsibility to protect witnesses at each stage of proceedings.

It is clear that since the case of Thomas Lubanga Dyilo began on 26 January 2009, the Court has, despite the complexity of the problem, gone to great lengths to ensure the protection of witnesses in the context of its various proceedings.

Ambassador,

It should also be noted, by way of illustration, that Senegal has worked closely with the Court in this area – notably by cooperating with the Victims and Witnesses Unit in the relocation of a witness to Dakar in the context of the **Jean-Pierre Bemba Gombo case**.

However, I am sure you will agree with me when I say that my country's determination to strive for international criminal justice and tackle impunity can most clearly be seen in its commitment to trying those accused of international crimes in Chad between 7 June 1982 and 1 December 1990.

On the basis of a legal and institutional framework that is consistent with the provisions of the Rome Statute, and, above all, in accordance with the decision adopted on 31 January 2012 by the Assembly of the Heads of State or Government of the African Union asking the African Union Commission and the Government of Senegal to examine the practical modalities and the legal and financial implications of the trial, an agreement between the two Parties on the creation of Extraordinary African Chambers within the courts of Senegal was signed on 22 August 2012.

Under that agreement, Extraordinary African Chambers, which began operating in March 2013, were established within Senegal's judicial system.

The focus of those proceedings is the indictment of Mr Hissène Habré of 2 July 2013 on charges of crimes against humanity, the crime of torture and war crimes, and his placement in preventative custody. Both the Prosecutor-General and the Investigation Committee have undertaken fact-finding missions in Chad.

The State of Senegal is committed to ensuring the security and protection of the staff of the Extraordinary African Chambers, as well as suspects, the accused, victims, experts, lawyers, civil parties and witnesses in the trial, while they are in the country.

I solemnly reaffirm before this august Assembly that the State of Senegal is committed to ensuring that Mr Hissène Habré receives a fair and just trial that respects the rights of the accused. The same commitment applies to the victims, who have the right to fair and just reparations. We should not forget that they have waited 23 years for this historic moment.

In the current international climate, which is characterized by growing suspicion regarding criminal justice and failings on the part of a number of national courts, which are having serious difficulties meeting their obligation to prosecute those responsible for mass crimes

and other serious crimes, the main challenge appears to be trying such people in accordance with international standards.

There is no doubt that the success of this trial will represent a major step forward in the long march towards international justice and the fight against impunity.

Ambassador,

Effective and efficient protection of witnesses in the context of international criminal justice presents major challenges, which concern all of us. What we need, essentially, is the following:

- universal ratification of the Rome Statute and the harmonization of national legislation, with provisions that provide witnesses with greater protection, while safeguarding the rights of the accused and the right of victims to full reparations;
- the development of training programmes to strengthen the capabilities of authorities tasked with applying legislation, in order to support the development of national witness protection programmes, as the complementary role played by national witness protection schemes is of fundamental importance as regards the gathering and preservation of evidence;
- the promotion of a holistic and multi-disciplinary approach with a view to encouraging moral, psychological, social/domestic, security-related, linguistic, cultural, technical and economic support for witnesses;
- stronger cooperation with organizations in civil society when it comes to identifying, resettling and supporting witnesses;
- the collation, assessment and communication of experiences, notably via a global study on the protection of witnesses;
- the mobilization of appropriate resources, over and above the covering of costs relating to resettlement, to ensure that witnesses are fully protected. This means that the special fund for the relocation of witnesses needs to be adequately financed by the States Parties so that the numerous complex tasks that have been assigned to it can be carried out effectively.

Specifically, there is a need, on the basis of the experiences collated by the Court, to devise and implement a true witness protection policy and establish an international mechanism tasked with monitoring it.

With this in mind, I call on the States Parties to fully respect their obligations arising from the Statute by cooperating effectively in the execution of arrest warrants and requests for surrender issued by the Court. The same obviously applies in the event of an investigation or a request for the pursuit or seizure of property or assets of the accused, which will be used to compensate victims in the event of a conviction by the Court.

I also call on those States that are not Parties to the Statute, the United Nations system, international organizations, and regional organizations such as the African Union, the European Union and the Organization of American States, to strengthen their cooperation with the Court in order to implement such a roadmap, the smooth execution of which will strengthen the effectiveness and credibility of the Court.

The adoption by this Assembly of a **specific resolution on the protection of witnesses** would be a decisive step forward in terms of the consolidation of international criminal justice.

With that, I declare this plenary meeting of the Assembly of States Parties on witness protection open.

Thank you all for your kind attention.
