

STATEMENT

BY

H.E. Mr. KELEBONE A. MAOPE

AMBASSADOR AND PERMANENT REPRESENTATIVE OF LESOTHO TO  
THE UNITED NATIONS

ON BEHALF OF AFRICAN STATE PARTIES TO THE ROME STATUTE

AT THE

THIRTEENTH SESSION OF THE ASSEMBLY OF STATES PARTIES TO ROME  
STATUTE OF THE INTERNATIONAL CRIMINAL COURT

NEW YORK

December 8, 2014

**Mr. President,**

At the outset, let me congratulate you on your election as the President of the Assembly of States Parties. African States Parties are confident that under your able leadership, the Assembly of States Parties will be able to accomplish all the tasks set out before it.

The African State Parties wish to reaffirm their unwavering support for the fight against impunity for the most serious crimes of concern to the international community. We stress that those who are implicated in the most serious crimes must be held accountable.

The creation of the ICC is a historic development in the global struggle to advance the cause of justice and the rule of law, and in ending impunity, and a major milestone in international criminal justice.

The ICC is a permanent institution which acts not only as a deterrent for potential perpetrators, but its mandate ensures that persons accused of those offences are actually brought to justice in accordance with the provisions of the law.

The Rome Statute is built upon the principle of complementarity, which is a positive development in the quest to promote and protect human rights by ensuring that accountability prevails. To this end, the Rome Statute affords States the opportunity to deal with cases of human rights violations under domestic law, and allows the ICC to assume jurisdiction only where the national judicial systems have failed, are unable or are unwilling to act. However, the African Group emphasizes that the primary responsibility for bringing offenders to justice remains with States.

The debate on justice and peace or peace and justice must not undermine the nobility of this element, nor should it undermine the principles deriving from national laws and international customary law by which sitting Heads of State and other senior officials are granted immunities during their tenure of office.

**Mr. President,**

For the Court to be effective and successful, universal ratification of the Rome Statute is fundamental. Equally important, we have to ensure that the perpetrators of the most heinous crimes are denied safe haven and brought to justice. We therefore need to step up our collective efforts to promote the universality of the Rome Statute.

The African States have the highest regard for the Rome Statute because of the protection and promotion of the rule of law. Africa has thus cooperated with the Court; indeed, all of the Court's current situations are in Africa, the majority of which were self-referrals. It is therefore self-evident that Africa is cooperating with the Courts.

**Mr President,**

However, there is a major concern by some about a perception that the ICC's exclusive focus on investigations in Africa to date suggests that the court is unfairly targeting Africa. The African Union (AU) repeated calls for non-cooperation should not obscure the consistent, active backing for the ICC among African governments and civil society across the African continent. It is well known that African governments were actively involved in establishing the ICC.

**Mr. President,**

It cannot be overlooked that the African Group composes the largest single bloc of member states of the ICC. Last year, yet another African state, Cote d'Ivoire, ratified the Rome Statute bringing the number of African States Parties to 34. The Constitutive Act of the AU explicitly prohibits war crimes, genocide and crimes against humanity with clear sanctions for violations. It is clear that the AU and the ICC are united in their principles and objectives on these matters.

However, we should bear in mind that much of the AU's concern vis-à-vis the ICC relates to the Security Council's inaction. In the past four years, the AU has premised its call for non-cooperation with the ICC on the Security Council ignoring its July 2008 request to defer the case against President Al-Bashir. Concern has mounted that the Security Council has disrespected the AU by failing to respond either positively or negatively to its deferral request.

**Mr. President,**

African States Parties would like to express their strong conviction that the search for justice should be pursued in a way that does not impede or jeopardize efforts aimed at promoting lasting peace and reiterate AU's concern with the misuse of indictments against African leaders; and stress the need for international justice to be conducted in a transparent and fair manner, in order to avoid any perception of double standards, in conformity with the principles of international law.

Therefore, African States Parties would like to strongly urge this Assembly to ensure that concerns raised by Africa are addressed. This includes proposals to amend the Articles 16 and 27 of the Rome Statute

**Mr. President,**

On the issue of geographical representation and gender balance in the recruitment of ICC staff, the African Group would like to see that nationals of all States Parties are given equal opportunity to work with the Court. The system of recruitment should not be based on how much a State Party contributes to the Court since the Court is an independent judicial institution. It is worth noting that all the situations that the Prosecutor is presently handling are on the territories of least developed countries and therefore it must be ensured that these countries are adequately represented at senior levels in the Court.

Justice must not only be done, it must be seen to be done. Therefore, the ICC being at the peak of criminal justice globally, it should be seen to be fair, not only in its decisions, but also in the recruitment policies.

**Mr. President,**

The administration of international criminal justice in Africa, was preceded by the experiences of the Special Court for Sierra Leone and the International Criminal Tribunal for Rwanda. These two judicial bodies have established the respect for the rule of law, which have brought about peace, order and stability in conflict torn societies. In conclusion, I wish to reiterate the African Group's willingness to remain engaged in the work of the Court as we continue the cause

to end impunity and reinforce the respect for the rule of law. We are confident that under your leadership, we will have a successful Conference

**I thank you.**