



STATEMENT TO THE GENERAL DEBATE OF THE 14TH SESSION OF THE ASSEMBLY OF STATES PARTIES OF THE INTERNATIONAL CRIMINAL COURT

Amnesty International welcomes this opportunity to address the Assembly of States Parties.

This Assembly is a critical body. States parties, civil society organizations and individuals in this room share a determination to end impunity. Together we have the capacity to make major strides towards ensuring justice for victims in all regions of the world.

While many aspects of the Assembly's work supports this goal, we face serious challenges.

We would like to draw attention to two particularly serious issues facing the ICC: the issue of resources and political interference.

Amnesty International is concerned that the lack of resources available to the ICC remains a key consideration in determining its investigations and cases. This should never be the case.

We call on all States Parties to ensure that the Court receives the support and resources it needs to achieve its optimal capacity and ensure that it can combat impunity and, in all regions, deliver justice to victims for whom the ICC is the only hope for justice.

Amnesty International is deeply concerned that the Assembly has decided to accept a number of agenda items proposed by Kenya and South Africa that potentially interfere with the independence of the Court and the Prosecutor. We remind states that the mandate of the Assembly as set out in Article 112 (2) (b) of the Statute is to provide administrative, not judicial, oversight of the Court.

Amnesty International believes that the judges of the ICC and the Office of the Prosecutor will be able to resist any real or perceived attempts at interference in their independence. However, it sends a disturbing message to the ICC, and the victims of the crimes that it seeks to deliver justice to, if this body does not defend the prosecutorial and judicial independence of the Court. Our concerns are as follows:

The Appeals Chamber is currently seized with questions relating to the compatibility of amended Rule 68 with the Rome Statute. These include the claimed retroactivity of the Rule's application and its compliance with the rights of the accused. The Appeals Chamber must be allowed to determine these matters without interference from the Assembly. The

proposal by Kenya for the Assembly to adopt a statement on its intended application stands to directly interfere with the judicial questions before the Court.

Any complaints regarding the conduct of the Office of the Prosecutor or any person in relation to witnesses must be addressed in compliance with the Rome Statute. Kenya's proposal for an audit of the Office of the Prosecutor's witness identification and recruitment process constitutes a serious threat to the independence of the Prosecutor and to the safety of witnesses. It should be rejected.

While it may be legitimate for the Assembly to develop Rules of Procedure on the application of Article 97, any discussions should relate to the merits of concrete proposals. A debate focused on the one and only application of Article 97 would be inappropriate while there is an ongoing non-cooperation proceeding against South Africa before the Court. This item should be postponed until that issue has been finalized and until South Africa, or any other State Party, presents proposals.

South Africa's request for the Assembly to adopt an interpretation of Article 98(1) that contradicts the ICC's decisions on the issue threatens to interfere with the on-going non-cooperation proceedings relating to its refusal to arrest President Bashir. It would also directly interfere with the judicial role of the Court to interpret the Statute. South Africa may make their legal arguments on this matter to the Pre-Trial Chamber.

In conclusion Mr President, these agenda items should never have been debated. We remind States Parties that most of these issues are *sub judice*. You have an obligation to ensure that your interventions and the decision taken by the Assembly do not interfere with the judicial and prosecutorial independence of the Court.

Thank you.