

Sixteenth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court

Statement by the President, Mr Sidiki Kaba, New York, 4 December 2017

Mr Secretary General of the United Nations Organization,
Madame President of the International Criminal Court,
Madame Prosecutor of the International Criminal Court,
Mr Registrar,
Mr Director of the Secretariat,
Your Excellencies, Ambassadors and Representatives of International Organisations,
Representatives of Non-Governmental Organisations,
Representatives of Civil Society,
Ladies and gentlemen,
Distinguished delegates,

1. I would like to begin by paying a heartfelt tribute to His Excellency, Mr Macky Sall, President of the Republic of Senegal, who nominated me and also supported and promoted my candidacy among his peers in Africa and on the other continents.
2. During the three years I have spent as President of the Assembly of States Parties, he has spared no efforts to ensure the success of my term of office on every level.
3. I would like to thank him from the bottom of my heart for his unwavering support which has enabled Senegal, the first country in the world to ratify the Rome Statute, to fly the flag for international criminal justice.
4. I would also like to thank all the African States which are members of the Rome Statute, along with all the States which make up this august Assembly, for my unanimous election to this important role on 8 December 2014.
5. I would like to thank the Secretary General of the United Nations, Mr António Manuel de Oliveira Guterres, for accepting our invitation to attend this morning and for delivering a strong and powerful message.
6. I would also like to thank the United Nations for its unwavering support for the Court by facilitating the organisation of our work in this magnificent building.
7. I hardly need say, Mr Secretary General, that by responding to my invitation, you have demonstrated the perfect convergence between the values and ideals of the Rome Statute and the aims and principles of the United Nations Charter.
8. I would also like to thank Madame President of the Court, Sylvia Fernandez De Gurmendi, for the work she carries out with a spirit of independence and Madame Prosecutor, Fatou Bensouda, for her unwavering commitment to her difficult duties and her professionalism.
9. The same applies to the Registrar and his team.
10. I would also like to include in these acknowledgements the Director of the Secretariat, Mr Renan Villacis, for his assiduous and loyal assistance, along with all his staff who work hard on a daily basis to ensure that the Assembly of States Parties runs smoothly.
11. I would also like to thank the Vice-Presidents, Ambassador Sebastiano Cardi and Ambassador Sergio Ugalde, for their efficient and altruistic collaboration alongside me. Through them, my thoughts go to all the members of the Bureau, the facilitators and focal points for their efficient contribution to the work of the Assembly.
12. I would also like to mention the civil society organisations who through their involvement, often risking their lives and freedom, constantly bring invaluable support to the action of the Court and of the Assembly of States Parties.

13. Now is the time to congratulate the Coalition for the ICC with its two thousand five hundred (2500) NGOs, headed by our friend William R. Pace, who has worked so hard since 1995 to bring the Court into being and for it to acquire its independence.

14. I would also like to pay tribute to the important role of the International Criminal Court Bar Association (ICCBA) in terms of safeguarding the rights of the defence.

Ladies and gentlemen,

15. I have just returned from Abidjan, where the fifth African Union-European Union summit was held whose central theme was “Investing in youth for a sustainable future”.

16. The situation of migrants in Libya was strongly condemned. In particular there were calls for an independent investigation to be opened for crimes against humanity under the aegis of the African Union Commission and also the European Union Commission and for the alleged identified perpetrators to be prosecuted.

17. The smuggling of human beings is repugnant and unacceptable. It is a throwback to the long and painful memory of Africans affected by seven centuries of slavery and colonisation.

18. The sale of African migrants in Libya which is happening before our very eyes is a concern for universal consciousness.

19. This criminal practice requires an urgent and firm response by the international community to ensure that this shameful situation at the dawn of the 21st century ceases once and for all.

20. However, the African nations must take their full share of responsibility for this tragedy.

21. It is up to them to repatriate their children and to snatch them from the grasp of migrant smugglers. Similarly, they need to offer their young people a better future by ensuring that they receive good education and decent training, and by providing decent jobs.

22. They must make progress along the path of sustainable development to avoid young people dying in the hot desert sands or in the Mediterranean Sea, which has become a marine graveyard.

23. I call upon all States to ratify and implement the United Nations Convention on transnational organized crime, adopted by resolution 55/25 of the UN General Assembly on 15 November 2000, along with its additional protocol on trafficking in persons of 15 November 2000, which has been in force since 25 December 2003.

24. Such a decision would send a strong signal to express our shared desire to combat this dreadful scourge which is an affront to human dignity and which is likely to constitute a crime against humanity.

Ladies and gentlemen,

25. The resurgence of human trafficking and slavery in the modern world should strengthen our collective commitment to promote and defend the legal and moral values enshrined in the Rome Statute of the International Criminal Court and also in the UN Charter.

26. We also need to see collective and determined mobilisation to combat violent extremism which is blindly destroying innocent human lives and which often leads to mass violations of human rights. Violations of this nature can also constitute crimes against humanity which fall under the competence of the Rome Statute.

27. I call upon all States to work towards the universality of the Court. This requires universal ratification of the Rome Statute and for its standards to be incorporated into national legal systems.

28. I am delighted that the State of Palestine and El Salvador both ratified the Rome Statute on 2 January 2015 and 3 March 2016 respectively.

29. There is no doubt that there will soon be further ratifications.

30. It is also necessary to strengthen the cooperation of States with the Court to ensure its effectiveness, credibility and independence.
31. Without such cooperation, the Court would simply be a fragile giant deprived of resources. It has no police, gendarmerie or army of its own.
32. Complementarity has to be developed. We must always bear in mind the fact that the International Criminal Court is only a court of last resort. Justice should be administered at a national level before it is administered at an international level.
33. Judicial sovereignty must be exercised at a national level first and foremost.
34. It is therefore up to the States to try in situ the alleged perpetrators of the most serious crimes committed on their territory.
35. The Court will only intervene when a State is clearly unable or unwilling to prosecute.
36. Complementarity requires us to strive to strengthen the capabilities of actors in the judicial systems, namely prosecutors, judges, lawyers, court clerks, bailiffs, the security forces - in short all those who play a part in the sound administration of justice.
37. National courts must be in a position to guarantee the conditions for a fair trial for all accused persons.
38. In this regard, the rights of the defence must be scrupulously complied with to satisfy international standards.
39. It is also necessary to ensure that victims are entitled to fair reparations for the harm they have suffered.
40. With this in mind it is necessary to support the ICC's Trust Fund for Victims by ensuring it has sufficient resources effectively to carry out its activities. I would like to issue a solemn appeal to all States to support the Fund.
41. We must continue to improve the Court's relationship with all States, and in particular African States, some of which have denounced the selective justice and the judicial imperialism of the International Criminal Court.
42. The reality is far more complex but we must listen to Africa and examine to what extent its criticisms are well-founded. Africa also forms the largest regional group with 33 States Parties. We need to address the recurrent criticism of a two-speed justice which is allegedly exercised for the benefit the strongest and to the detriment of the weakest.
43. In order to achieve this, the Office of the Prosecutor has to be given all the necessary resources (financial, human and logistical) to ensure that it can carry out investigations everywhere. In particular so that it can prosecute, where necessary, without distinction, nationals from every region in the world who are involved in perpetrating the most serious crimes under the Rome Statute.
44. This new reality will undeniably change negative perceptions of the Court. Africa will no longer feel that it is the Court's only target.

Ladies and gentlemen,

45. 2016 was a decisive turning point for the issue of the crime of aggression, since five (05) States (Chile, El Salvador, Iceland, the Netherlands and the State of Palestine) ratified the amendments pertaining to the crime of aggression.
46. Since the State of Palestine was the 30th country to ratify the amendments, the threshold of 30 ratifications required to activate the Court's jurisdiction over the crime of aggression has now been reached.
47. It is therefore for the Assembly of States Parties to take a decision in this regard.
48. Now is the time to call upon you all to work unreservedly and wisely to secure a consensual activation of the Court's jurisdiction over the crime of aggression.

Ladies and gentlemen,

49. As I prepare to hand over the baton to Judge O-Gon Kwon, I would like to congratulate him on his imminent election and wish him luck in carrying out the hard yet exciting work he will be required to perform over the next three years.

50. I would also like to emphasise that I am willing and able to support the new bureau.

51. I would also like to reiterate my country's commitment to the values of justice, human rights and the rule of law. Senegal will continue to work with all the other countries to combat impunity in order to prevent the recurrence of the most serious crimes such as genocide, crimes against humanity and war crimes.

52. It will also work with the international community to lay the foundations for a world where peace, stability and international security reign.

53. I would also like to end on a positive note because I am an optimist.

54. The Court needs to be invested with a new mission: that of gradually becoming dormant as a result of a substantial decrease in mass crimes around the world.

55. If such a utopia were to come about:

- (a) We would then have successfully defeated the prosperity of Evil.
- (b) We would then have paved the way for effective universal justice.
- (c) We would then have heralded a dawn of new hope for all mankind.

Thank you for your attention.
