



**STATEMENT BY H.E. MR RONALD LAMOLA,  
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SOUTH AFRICA**

**ON BEHALF OF SOUTH AFRICA**

**TWENTY-SECOND SESSION OF THE ASSEMBLY OF STATES  
PARTIES  
OF THE INTERNATIONAL CRIMINAL COURT**

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*Check against delivery*

Madam President,

It is an honour to deliver this statement on behalf of South Africa.

I wish to take this opportunity to congratulate the new ICC Registrar, Mr Osvaldo Zavala Giler, the new President of the Assembly, Ambassador Paivi Kaukaranta, the two Vice Presidents, Ambassador Margareta Kassangana and Ambassador Michael Kanu, the six judges and the six members of the Committee on Budget and Finance on their election.

We wish them successful tenures and they can be assured of our full support.

The meaning of the Rome Statute should be felt by citizens of the globe who are victims of genocide, citizens of the globe where the crimes to be prosecuted or prevented by the Rome Statute are awaiting the outcomes of this conference with hope that impunity will not be allowed to continue.

Madam President

As the world marks the 10th year of President Mandela's passing, I would like us to revisit what he said when South Africa became a signatory to the Rome Statute.

As fate would have it, a day before President Mandela's 80th birthday South Africa was one of the first ten nations to sign the Rome Statute.

In that moment in history President Mandela said, "***Our own continent has suffered enough horrors emanating from the inhumanity of human beings towards human beings.***" I pause here to say this is the part that is often quoted.

But the second component of the submission that is seldomly quoted it may very well be because it is a question that haunts into the deep bowls of our conscious.

Madiba goes on to ask this question:

***"Who knows, many of these might not have occurred, or least been minimised had there been effectively functioning International Criminal Court"***

Earlier this year, we gathered here to celebrate 25 years since the adoption of the Rome Statute of the International Criminal Court.

We patted each other on the back and said the creation of a permanent International Criminal Court was a remarkable achievement by the international community, which brought hope that we could bring an end to impunity for serious crimes under international law, and to address the threat to international peace and security and to the well-being of the international community as a whole.

Madam President

On this occasion of the twenty-second session of the Assembly of States Parties, it is therefore appropriate to ask ourselves have we fulfilled the expectations of humanity, have we arrested the horrors of inhumanity visited upon humanity by human beings like you and me.

Or Perhaps in more direct terms can we say with conviction 10 years after Madiba has transcended humanity that we have an effectively functioning International Criminal Court.

On the face of it the Court's achievements are attested to by the number and geographic scope of situations under investigation by the Office of the Prosecutor, or the number and gravity of cases – both those finalised and those still pending before the Court – but also the significant and commendable strides that have been made at the domestic level in the prosecution of grave crimes.

However, in these deeply disturbing times, where we daily witness the harrowing devastation caused by armed conflicts in various parts of the world, it is imperative

that justice be done and that all the victims see justice being done by holding those responsible to account for the war crimes, crimes against humanity and genocide committed in these conflicts.

Madam President

South Africa's position regarding the conflict in Palestine and Ukraine has been to consistently and unequivocally call for the immediate cessation of hostilities, unimpeded humanitarian access to affected population and balanced and unbiased investigation of crimes under the courts' jurisdiction that may have been committed.

We are deeply disturbed by the events that have taken place within the context of the situation in Palestine since 7 October 2023.

In this respect, it is striking that when looking at two major current and ongoing armed conflicts, in Ukraine and in the State of Palestine, where both situations are under investigation by the Office of The Prosecutor, we have observed far more speedy progress and indictments from the Ukraine investigation than the investigation into the long outstanding situation in the State of Palestine. Arrest warrants hover above the heads of some, yet when it comes to the State of Palestine, the arrest warrants seem to be an embodiment of a mirage.

We are watching the unfolding events daily.

Madam President, we must always prioritize truth-telling, even when it works against our interests. This is what integrity demands. Within this spirit, we raise our concerns about the Prosecutor's behaviour in Palestine.

The Prosecutor's statement on collaborating with national authorities in line with the complementarity principle is commendable. However, it raises questions when considered in the context of the ongoing genocide.

Additionally, the Prosecutor's praise for lawyers advising the Israeli government is alarming, given the gravity of the situation. It is crucial that all parties cooperate to prevent such atrocities, and the world should demand a thorough investigation into these devastating incidents. Furthermore, it is unacceptable that the Prosecutor did not extend the same justification to Palestine despite it being a state party to the Rome statute. This issue demands urgent attention.

There should be no ambiguity Madam President, the tragic actions by the State of Israel we are seeing in Gaza meet the definition of war crimes and crimes against humanity, and even the crime of genocide.

Our concern about the unacceptable loss of life and human suffering in Gaza obliged South Africa, joined by Bangladesh, Bolivia, Comoros and Djibouti, to refer the situation in Palestine to the Office of the Prosecutor on 17 November 2023. Fully aware that other violations in occupied Palestine have been under investigation, have been pending since 2018. With no clear way forward in sight.

We urge the Office of the Prosecutor to apply the resources made available to it under the programme budget of the Court to investigate all situations with which it is seized in a manner that accords with the requisite sense of equity and balance. This duty upon the OTP is owed, in the first instance, to the victims of grave crimes, but also to the international community, to uphold the legitimacy of the institution of the ICC itself through the uniform application of the rule of law.

The preamble to the Rome Statute articulates the role of the Court as being to contribute to the prevention of the crimes under its jurisdiction and the need to ensure lasting respect for international justice. For international criminal law to be credible, it should be uniformly applied.

Madam President

The Court, as the only permanent international criminal tribunal, has an obligation to the States Parties, to the victims and to the whole of humanity to protect its reputation of impartiality at all times. The Court must at all times guard its independence jealously as an institution which, through the OTP, investigates allegations and prosecutes those allegedly responsible for grave crimes in an unbiased and even-handed manner. Both the Bench and the OTP must never allow themselves to become instruments of global power struggles.

South Africa remains committed to our collective vision to end impunity and to the ICC as an institution that is central to this project. We believe that all States Parties should remain resolute in their efforts to work diligently and in good faith for the betterment of this institution. States Parties, as well as the Court, should also condemn and resist all attacks on the Court by states and non-state actors alike, and should do so in a consistent manner.

Madam President

One of the challenges faced by the ICC is that it is not yet a universal court. The recent ratification of the Rome Statute by Armenia, however, sets a positive example of principle and courage that we hope will be emulated by other States that have not yet ratified the Rome Statute and joined the ICC, particularly States that play an influential role in global governance and the maintenance of international peace and security, such as the permanent members of the United Nations Security Council.

South Africa notes that the Security Council retains the power to refer situations to the Court in terms of Article 13(b) and to defer investigations or prosecutions before the Court in the interests of peace and security in terms of Article 16. However, the dynamics within the Security Council may be such that neither referrals nor deferrals may be possible, to the detriment of the maintenance or restoration of peace and security.

After a quarter of a century, of the adoption of the Rome Statute it is appropriate to consider the feasibility of devolving this power to a State Party mechanism to ensure a balanced approach in the Rome Statute system.

Another aspect of legitimacy that should receive urgent attention is the principle of geographic representation and gender balance within the staff complement of the Court. South Africa calls on all States Parties to ensure that all organs of the ICC truly represent its membership. We should honour this cardinal principle which will engender a deep sense of inclusion for all.

Madam President

Turning to other issues on the agenda of this ASP, South Africa wishes to commend the work done under the Review Mechanism. We can already see the positive changes brought about by those recommendations that are already being implemented. As we move forward, it is important to ensure that all positively assessed recommendations are implemented. We believe that the mandate of the Review Mechanism should be wrapped up, and the implementation of the outcome of its work should be assigned to existing institutions within the Court.

At this session, negotiations on the budget of the Court will continue. We are grateful to the Registry and the CBF for having been accessible to the States Parties and for the information they have provided thus far in the negotiations on the budget. We look forward to engaging constructively in the discussions and we have full confidence in the facilitator on the budget to bring States Parties together to achieve an acceptable outcome that represents a balance between the resource requirements of the different organs of the Court and the economic realities faced by States Parties.

We also believe that this session should adopt a revised policy on legal aid that will ensure that the labour conditions of both defence and victims' counsel are improved in line with the principles of justice and fairness.

We also look forward to adopting a permanent due diligence process that will contribute to booting the integrity of the ICC as an institution, led only by persons of a high moral character.

Madam President

We assure you of South Africa's full support during this session.

We also wish to take this opportunity, as we have done before, to recognise the role that civil society has played in the Court's establishment and the valuable support it continues to provide to the Court to advance the objective of ensuring accountability for the most serious international crimes.

Thank you for your attention.