



OPENING STATEMENT

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GENERAL DEBATE:

**TWELFTH MEETING OF THE ASSEMBLY OF STATES PARTIES OF THE
INTERNATIONAL CRIMINAL COURT**

THE HAGUE

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Madam President,
Distinguished delegates,
Ladies and gentlemen

For many centuries, statesmen, philosophers, lawyers and theologians have struggled to address the central problem that has always confronted the international system, namely how to order this anarchical system, and to ensure peace, security, justice and progress, prevent and contain conflict and protect the lives and rights of human beings. International law has been a central instrument in achieving order and human rights since the time that the great Dutch jurist Hugo de Groot, who lived part of his life in this city, developed the principle of the common rights of mankind.

Especially since the end of the Second World War, the role of international law in the protection of human rights and human dignity has increased exponentially. The creation of international institutions aimed at securing and maintaining international and regional peace and security and human rights, the development of human rights law as well as international criminal law and the international criminal tribunals to apply such law, resulted in a complex, integrated new system of international law. The Rome Statute, and the first international criminal court that has been established on a permanent basis, are crowning glories of this human-centred new international law.

The Rome Statute and the International Criminal Court therefore do not operate in a vacuum, but are important elements in a new system of international law. The ICC operates in relation to other international institutions that also aim to create international order and security, notably the United Nations and the African Union. This relationship underpins the relationship between peace and justice, something that was evident to the drafters of the Rome Statute as well as the drafters of the Constitutive Act of the African Union.

Madam President,

South Africa acknowledges this relationship. We are firmly committed to the ideal of peace and security, and the values of justice and the fight against impunity. In our own history, when we emerged from the end of apartheid, which was defined as a crime against humanity in the Rome Statute, South Africans had to strive towards these ideals, particularly in relation to managing a complex political transitional process.

We therefore welcome the willingness of States Parties and the Court to, in the special segment of the plenary meeting that will be held tomorrow, explore the challenges facing the international criminal justice system through a frank exchange of ideas. We are firmly committed to the principles of the Rome Statute and our objective is to seek ways to promote these principles and objectives in a manner that does not compromise peace and stability.

Madam President,

It is because of this inter-related relationship between peace and justice in the new value-laden system of international law and our own history, that we see no contradiction between South Africa's continued support of the ICC as a judicial body to dispense justice, on the one hand, and the attainment of peace and stability in Kenya through political means, including the process provided for in Article 16 of the Statute, on the other hand. Peace and justice go together: we cannot pursue one without regard to the other and we certainly cannot pursue one at the expense of the other; they are two sides of the same coin.

While the Court continues to pursue justice, the political organs of the system we have created, including the UN Security Council and the AU Peace and Security Council, must use all means available to them to ensure the attainment and maintenance of peace and security. It is therefore disappointing that the Security Council during its consideration of the African Union's request for a deferral of the situation in Kenya in terms of Article 16 of the Statute did not take more time to review the situation in that country and the region before calling a vote on the matter.

The fact that the Rome Statute creates a mechanism to manage sensitive and complex political situations, does not mean that the Court's role as an impartial dispenser of justice or its independence is in any way compromised. We will all agree that the Court's independence and impartiality are sacrosanct and that it therefore requires continuous support from the international community.

Let us always keep in mind that, as the old saying goes, Rome was not built in a day. Similarly, the Rome Statute system is a continuously evolving and developing system. We know that we must still wait some time for our concerted efforts to find a satisfactory definition of the crime of aggression and for the definition to be operationalized. Let us always bear in mind the long-term and permanent nature of the Rome Statute system. We must direct all our efforts to protect this system for the benefit of future generations.

Madam President,

South Africa, as a Member State of both the Rome Statute and the African Union, welcomes the positive contacts that have taken place between the AU and the ICC over the past year. We firmly believe that such contacts should be enhanced and expanded, to the mutual benefit of both institutions.

Madam President,

It is in the above context that we are again reminded of one of the foundational principles of the Rome Statute system – the principle of complementarity. The building of national capacity to investigate and prosecute serious crimes of concern to the international community is one of the most important tools in the fight against impunity. South Africa has been privileged to, together with Denmark, serve as focal point for the efforts to promote positive complementarity.

Complementarity and universal jurisdiction are vital aspects of international law. In 2011 Sir Geoffrey Bindman QC wrote about the Court and said that - “the ICC must be viewed not in isolation, but as the pinnacle of a pyramid of national courts sharing responsibility for international criminal justice. It would be absurd to imagine that a single court in The Hague could ever have the capacity to put on trial all those suspected of human rights abuses throughout the world. The ICC was never meant to displace the responsibility of every individual state to bring such criminals to justice within its own domestic courts.”

Madam President,

In conclusion, we wish to emphasise that at the apex of the new, human-centered international law system are human beings – the victims of the Rome Statute crimes. While we struggle with the challenges that every generation inevitably faces in their efforts to improve the conditions of humankind, we should pay homage to the efforts of

the Court, various governments and civil society to protect and advance the interests of victims of crime.

Thank you.