

**Intervention of the United States observer delegation  
Ambassador-at-Large for Global Criminal Justice Stephen Rapp  
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Thank you, Mr. President, and congratulations on your election as the President of the Assembly of States Parties.

As the Ambassador-at-Large for Global Criminal Justice at the Department of State, I am pleased to address the Assembly of States Parties and our fellow observers on behalf of the United States of America. I would like to speak briefly about some of the work the United States has undertaken this year, together with many of you, in the common cause of justice.

Our work together has often taken place against a backdrop of commemoration. On several occasions in 2014, our governments have come together to reflect on the slaughter that devastated Rwanda twenty years ago. Our reflections have been solemn, but they have also given us a chance to see that there are areas in which we have made progress in the two decades since this tragedy – commitments we have deepened, practices we have adapted, ideas we have changed.

We also recognize that no nation is perfect, ours included. As Secretary of State John Kerry suggested on Tuesday, it demonstrates strength “...to recognize and wrestle with our own history, acknowledge mistakes, and correct course.”

I’d like to begin by focusing on one area in which my government, like many of yours, has put a strong emphasis: taking strides to prevent and punish sexual violence more effectively, particularly in the context of armed conflict. The historic summit on preventing sexual violence in conflict hosted in June by the United Kingdom helped show that we have a growing common understanding of the importance of confronting this neglected injustice and holding perpetrators of these heinous crimes to account. In particular, as Secretary Kerry said, “we will not, we should not, we cannot tolerate peace agreements that actually provide amnesty for rape.”

But translating this growing consensus into actual prevention will require each of us to continue taking steps to implement our commitments. The Prosecutor of the ICC has expressed her commitment to doing so in a recent policy paper on her Office’s approach to pursuing perpetrators of sexual and gender-based crimes. The United Kingdom has led the development of a protocol for investigating and documenting these crimes that implementers and donors can deploy to ensure this kind of prosecution is possible. And the African Union has appointed a special representative for women, peace, and security, Madame Bineta Diop, who is working to strengthen the AU’s effectiveness in preventing these crimes. For our part, the United States is focused on deploying a wide range of tools, including new support to specialized and innovative judicial mechanisms that support access to justice for conflict-related sexual violence, and a new commitment announced in September of \$12 million to help international organizations and NGOs prevent and respond to gender-based violence from the earliest stages of a humanitarian response.

Any assessment of progress, whether in preventing sexual violence or addressing atrocity crimes more generally, must reflect a recognition of the challenges that rise before us. In the year since this body last convened in The Hague, we have seen mass violence against civilians emerge or reemerge in countries around the world. Many of our institutions are straining to meet the demands of these crises, including the providers of humanitarian assistance and the peacekeepers charged with civilian protection. Attaining accountability is no less vital an element of our response to such conflict and violence, and judicial institutions at every level are under strain as well. Faced with these strains, the United States continues to place a premium on what the Court has called “positive complementarity” – an effort to support countries in their own domestic efforts to strengthen the rule of law and pursue accountability for atrocity crimes in national, regional, and hybrid courts. We have worked closely with many of you in support of such solutions, and I will briefly discuss a few of them here.

In the Democratic Republic of the Congo, where persistent impunity has fueled a devastating series of conflicts, the United States has worked for many years to assist the Congolese to bolster the capacity of their military justice institutions. The recent conviction in domestic courts of Jerome Kakwavu, an army general, for rape and other crimes and the upcoming ICC trial of Bosco Ntaganda help reinforce a needed signal that all those responsible for crimes involving sexual violence should be held accountable, no matter what rank they hold. Given the scope of the accountability challenge in the DRC, we continue to advocate for the establishment of mixed chambers that could help address more of the cases that cry out for justice.

In the Central African Republic, we applaud the commitment of the transitional authorities to pursue justice, through a referral to the ICC, as well as through the establishment of a special investigative unit and a mixed Special Criminal Court in its national system, under the terms of the agreement reached by the UN peacekeeping mission and the interim national authorities. Special courts that feature international participation within the context of national systems offer a particularly effective way to build domestic capacity and independence.

In several instances where the perpetrators of grave crimes are currently beyond the reach of accountability mechanisms, we are laying the groundwork for future justice initiatives through documentation and reporting programs. The world has been shocked by the outrages committed by members of the terrorist organization ISIL, which has targeted women, members of religious minorities, and indeed members of any community that dares oppose its brutality. In addition to leading an international coalition to degrade and defeat ISIL, the United States recently announced \$1.6 million in assistance to help build Iraqi civil society’s capacity to document human rights abuses committed by ISIL and others.

In Syria, Assad and his regime must be held accountable for the horrific abuses committed against its own people. The United States stood with those who supported the ICC referral resolution that was proposed by France and others earlier this year, and we will continue to support the efforts of the U.N. and nongovernmental organizations to assemble the evidence that will ultimately be needed to help ensure justice, in one venue or another.

Finally, in South Sudan, we have seen two leaders prioritize a struggle for political power at the expense of building their new nation, stirring ethnic divisions and unleashing a cycle of brutal

killings. We have welcomed the African Union's decision last year to launch a commission of inquiry to look into the abuses committed in this conflict, and we are prepared to support a way forward that offers a credible path to accountability for the worst crimes and reconciliation among the affected communities. We urge the parties to reach a lasting and sustainable peace agreement that ends South Sudan's cycle of violence, and to do so before this man-made crisis pushes their country, already the most food insecure in the world, even deeper into a humanitarian crisis for which they would bear responsibility.

For reasons that have been much discussed, the United States has not accepted the Court's jurisdiction. Nonetheless, in this context of global challenges, the United States has worked with the ICC to identify practical ways to advance our mutual goals, on a case-by-case basis and consistent with U.S. policy and laws. We have expressed our support for each of the situations in which ICC investigations and prosecutions are underway; and we have offered financial rewards for the apprehension of several of the fugitives at large in the ICC's current cases. As the safety of witnesses remains in many cases a grave vulnerability for the work of the ICC, we have continued to work with the Court to respond positively to requests for assistance relating to witness protection. While the Court has increasingly made use of its authority to deter and punish efforts to tamper with or intimidate witnesses, we encourage all states to do what they can to protect the vulnerable when they risk their lives and those of their families by testifying.

A defining challenge for the Court, and in particular its ability to establish itself as a successful and legitimate institution, is the need to address concerns which we and others have expressed related to the limits it faces, both practical and legal. The Court has limited resources and many demands, and we agree with those who have encouraged the Court to focus its efforts where it can succeed. Satisfying the high standards of proof in the cases and trials already under way will be essential to establishing the record of success on which the Court's deterrent impact depends. By the same token, as the Court establishes and adapts the procedures by which it makes and explains its prosecutorial choices, it must ensure that the transparency it seeks in its process is balanced with a sufficient degree of rigor, fairness, and caution.

I would also briefly highlight, as my government has consistently done since the 2010 Kampala review conference, the issue of the crime of aggression. We have previously praised the wisdom of that gathering in deciding to provide additional time for consideration by subjecting the activation of the Court's jurisdiction over this crime to a decision to be taken no earlier than 2017. That date, once distant, is now fast approaching, and it is becoming ever more vital for the States Parties and others to address the issues posed by the aggression amendments. In particular, we urge the States Parties to consider steps that might be taken to mitigate the risk that these amendments will work at cross purposes with legitimate efforts to prevent and punish the very atrocity crimes that have inspired our common efforts and provided the Court's *raison d'être*.

Finally, we remain concerned about the manner in which the decisions regarding Palestinian participation in this Assembly are being reported in some quarters. We recognize that these are only procedural decisions, and that they are without prejudice to decisions taken for any other purpose, including decisions of other organizations or any organs of the Court. The longstanding position of the United States on Palestinian status is well known and I will not repeat it here.

Next year, like this one, will be a year of commemorations. We continue to believe that one of the best ways of honoring the memory of victims and survivors – whether they be the men and women liberated from concentration camps at the end of the Second World War, the 1.5 million Armenians massacred or marched to their deaths in the final days of the Ottoman Empire, or the men and boys who were murdered at Srebrenica – is to learn and apply the lessons of past calamities. The United States will remain committed to the cause of preventing such atrocities and promoting accountability, and we will continue to work with the other states and partners assembled here to support the dogged work – of strengthening institutions, collecting evidence, and bringing the truth to light – needed to ensure that we live up to this commitment, even in the face of an ever more challenging world.

Thank you.