



STATEMENT

BY

AMB. ROSE MAKENA MUCHIRI,

**AMBASSADOR OF THE REPUBLIC OF KENYA TO THE KINGDOM OF THE
NETHERLANDS**

DURING

THE GENERAL DEBATE OF THE 15TH SESSION

**OF THE ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**

Thursday, 17th November, 2016

THE HAGUE – THE NETHERLANDS

Check against delivery



Mr. Vice President,

Excellencies,

Ladies and Gentlemen,

Allow me to commend you and through you, President Sidiki Kaba, for the leadership, stewardship and accomplishments at the helm of the Assembly of States Parties (ASP). We are truly grateful and take this opportunity to acknowledge your personal commitment and efforts to make this a better Assembly.

Mr. President,

The African States remain the bedrock of this Assembly. No other region robustly engages this Court and the Assembly more than Africa. Sadly though, here at the Assembly of States Parties, we find ourselves once again confronted with hostility and negative perception that continue to undermine our engagement.

During this Assembly, State Parties have been accused of deserting victims of international crimes while masquerading as defenders of human rights. The accusations are sad and tragic especially as Africa continues to play host to millions of refugees, who others brand as illegal immigrants. The demonstrated commitment is testament to our contribution to the Global justice system.

How can it be Mr. President, that our guest, the United Nations High Commissioner for Human Rights, musters the courage to ruthlessly berate



States Parties in this Assembly? In his statement to this Assembly he said "If the State Parties who apparently have been masquerading in the recent years as countries devoted to criminal accountability want to leave, then they should leave!" He said this to States Parties who are signatories to the Rome Statute. Yet, he lacks the courage to mention by name and shame countries that remain outside the ambit of the Rome Statute? Are some of these parties not the countries that have deserted the victims of the most abominable international crimes? Or do African States have to be the perennial scape goats? We are shocked, saddened and dismayed by his statement; something about it came across as unhinged and very unfortunate. However, we must remain focused on the agenda of this Assembly.

Mr. President,

The Commissioner gave the example of the United States of America and her blistering attacks during the convocation to adopt the Rome Statute 20 years ago. By his own recollection, he noted that it was Africa that stood up against the USA. How is it then that the same Africa cannot raise in this esteemed Assembly, the challenges that now bedevil our court?

Our contribution to the Assembly and to the Court over the last decade defines who we are, and what we are not. We are not isolationists and we are not the unprincipled! To the contrary, Mr. President, countless hurdles are thrown to frustrate our proposals to better the Assembly and in turn enhance the credibility and accountability of the Court. This is the attitude that continues to undermine our Assembly in total disregard of the Spirit of the Rome Statute. This attitude must be purged with vigour from our midst!



Mr. President,

We must confront the double-speak with courage. The absurdity that suggests that we Africans are complicit to the worst forms of barbarism is unwarranted and only aims at sowing division and isolating Africa at a time when the calculated and unlawful destruction of human life and property has reached, and even surpassed, the proportions last seen during the 1st and 2nd world wars. The highhandedness of language used to criticize Africa ostensibly in the name of victims, is incredulous.

Mr. President,

Kenya asks all of us to find the strength in our convictions and speak truth to power in a fair and unbiased manner. Not to be like those who are only willing to rant and shout at the weak. This Assembly is for all nations, big or small and we cannot cower away from this high calling of a civilized, inclusive world where we deal with each other as equals with respect.

Mr. President,

Many delegations have taken to this podium and have stated and restated, that they remain engaged in order to deal with the challenges the Court is facing today. While Kenya notes this belated acknowledgement of what needs to happen, we take it to be a vindication of what many of us, especially those from the African continent, have stood for many years, particularly during the last three sessions of the Assembly.



We have highlighted that the ICC is facing a test to its efficacy, veracity, legitimacy and credibility. That the Assembly and the Court must confront this reality and embrace reforms. This therefore, is a call to this Assembly to remedy this worrying state of affairs by having a free, frank and open dialogue on what ails the ICC.

Mr. President,

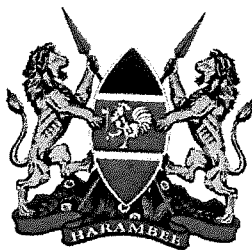
Kenya cannot afford to engage anymore in superficial exchanges and endless banter.

Kenya has always believed in the noble objectives of the Statute, that there should be an end to impunity in our world. Kenya remains a defender and promoter of human rights. Kenya has always and will always act in good faith, whether inside or outside this Assembly. After all, this Assembly has no monopoly on the promotion and protection of human rights nor on the fight against impunity despite inflated claims to the contrary.

Kenya is a Democratic construct and as a disciplined member of the comity of nations, and a member in good standing, who upholds and honours her International obligation. Kenya's engagement with the Court and in this Assembly is and will remain guided by the notions of the law, state practice, multilateralism and diplomatic etiquette.

Mr. President,

If the dialogue sought by all nations of goodwill is to have any meaningful impact on the Court, these prejudicial, careless and cavalier statements should find no place in the Assembly and should be condemned in the



strongest terms possible by all delegations of goodwill, be they States Parties, non-State parties, Observers, including the fraternity of civil societies.

As an Assembly, we should be engaged in addressing the systemic and structural weakness of the Court, failing which these wounds will continue to fester. Ignoring the views of a section of the membership will surely and most certainly be the demise of the ICC.

Mr. President,

In conclusion, My delegation expects that during this Assembly, we shall put aside any distractions that can prevent us from having a constructive engagement and work collectively for a fruitful outcome. We hope that all the questions/concerns raised by delegations including our own will be addressed in this Assembly. We again urge all delegations not to shy away from taking part in conversations of a complex nature including demanding institutional accountability, as this is the only way we will be able to know the Court's mistakes, learn from them and ensure that the International Criminal Court (ICC) can take its rightful path.

THANK YOU.