



REPUBLIQUE DU SENEGAL

Un Peuple – Un But – Une Foi

Statement by Maître Sidiki KABA

Keeper of the Seals, Minister of Justice of the Republic of Senegal

**President of the Assembly of States Parties to the Rome Statute
of the International Criminal Court**

**13th SESSION OF THE ASSEMBLY OF STATES PARTIES
TO THE ROME STATUTE OF THE INTERNATIONAL
CRIMINAL COURT**

New-York, 08 - 17 December 2014

Madam President of the Central African Republic,
Mr. Legal Counsel, Representing the Secretary General
of the United Nations,
Ambassador Tiina Intelmann,
Mr. President of the International Criminal Court,
Madam Prosecutor,
Mr. Registrar,
Excellences,
Representatives of the NGOs,
Ladies and Gentlemen,
Dear Guests,

Allow me, in this moment of great emotion, to solemnly express to H.E. Mr. Macky Sall, President of the Republic of Senegal, my deepest gratitude and sincerest thanks for having proposed, promoted and supported my candidature to the Presidency of this august Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC).

President Macky Sall reaffirms through this personal engagement, in full coherence with His political vision rooted in the fight against impunity, the promotion of Rule of Law and the entrenchment of democracy, His unwavering determination to defend the essential principles and values of the International Criminal Court.

He has mandated me to tell you that Senegal, the First Country in the World to have ratified the Rome Statute, will spare no effort, with Its Government, in order to support the Assembly of States Parties of the International Criminal

Court in reaching its objectives of crime prevention, stability of our States and preservation of Peace.

I would also like to address my sincere thanks to the 34 African States Parties for having endorsed my candidature and to all 122 States Parties for greatly honoring me by this election as President of this Assembly for the next triennium.

The trust placed upon my modest person is of great responsibility. I recognize it has a source of motivation in the fulfilment of my mandate.

Ambassador Tiina Intelmann, it is with ease that I take the initiative, in the name of the Assembly, to pay tribute to you. You were President during a hectic period, witness of the new and overwhelming challenges that the Court and our Assembly had to face.

Your faith in Justice has provided to you the strength to be an effective spokesperson of our common aspiration to preserve the independence and integrity of the Court, and cope with the political and geostrategic interests of States.

You have carried, with courage and skills, the fight against impunity in the farthest lands of the Planet.

You have managed, with your innate command of diplomacy, to gather the so precious support of Governments, Civil Society Organizations as well as other actors of the laudable cause that unites and reunites us.

You have, by your daily commitment, brought back hope to thousands of victims of the worse kind of exactions throughout the World. In sum, we would just like to say that you have served, with faith and determination, the ideals and principles of International Criminal Justice.

I would like, naturally, to associate the outgoing Bureau to this acknowledgment as, under your able leadership, it has functioned in a cordial and efficient manner.

We, therefore, can hope that this Thirteenth session of the Assembly of States Parties will carry under the best auspices, thanks to the outstanding work that its members have done in its preparation.

Mr. Legal Counsel, representing the Secretary General, your presence here demonstrates the interest that the United Nations vows to the Court, and its central role in the maintenance of international Peace and security. Thus, the collaboration between the UN and the ICC should be strengthened so that the best solutions can be found to the important challenges that humanity faces.

President Sang Hyun Song, as your time at the ICC is coming to an end, the Assembly of States Parties, through my voice, would like to render a well-deserved tribute for the excellent work you have achieved, since your election as judge in 2003. You have served with abnegation in order to make the Court more effective, more efficient and better suited to respond to the needs for Justice expressed by the Peoples of the World. We salute, in you, the man with exceptional competence, recognized expertise and flawless devotion to the Statute.

Madam Prosecutor, I magnify the will and professionalism that you have showcased in the fulfilment of your mandate. We appreciate your brilliant Launch, yesterday, of the policy paper on Sexual and Gender-Based Crimes.

Mr. Registrar, we are happy to note that since you assumed office last year, you have raised to meet our expectations and become the backbone of Court with excellence. We are confident, that under your guidance, the office of the registrar will continue to ensure a smooth operation of the Court, so that it could deliver on its promises.

Excellences,

Ladies and Gentlemen,

When submitting my candidature to you, I enunciated the strategies on which I intend to base my action to tackle the major challenges the ICC faces. I have identified four:

The first challenge I intend to take on is that of reconciling the ICC with all Regions of the World, including Africa.

Should we recall that Africa is currently the Continent with the highest number of States Parties to the Rome Statute? They are thirty-four. Four African Judges seat in the ICC. And the Position of Prosecutor is occupied by an African.

Should we also recall that African States have been the first ones to seek the Competence of the Court? I think of the Democratic Republic of the Congo, Uganda, Ivory-Coast, Mali...

These referrals are eloquent proofs of Africa's will to fight impunity. Africa is therefore not against the Court.

However, there is a perception of double standard in the administration of International Justice which creates a misunderstanding leaving the impression that the ICC is against Africa and that it is one selective, partial or even

discriminatory jurisdiction. We must change this negative perception of the Court in the eyes of African populations. To this effect, the ICC must listen to the recriminations of Africa which are not all illegitimate or devoid of basis.

The ICC must also redirect its action by prosecuting, without distinction, all presumed responsible of Crimes under its jurisdiction, regardless of their location and nationalities.

It must finally undertake a vast communication on its actions, achievements and projects in order to lift all ambiguities that are source of the quarrels and attacks that it is a victim of.

These measures, I believe, will contribute to the restoration of the trust in the ICC and to the strengthening of its legitimacy, guarantee of its credibility. This is why; I intend to put, with your support, my term under the sign of Dialogue and Intelligent cooperation between the ICC and all States including those from Africa.

This dialogue must enable us to find dynamic consensuses, to unlock the situations with the potential of alighting a crisis and paralyzing our activities.

But the resort to dialogue must not, in any circumstance, challenge the integrity and independence of the ICC, which could undermine the colossal progress achieved by this jurisdiction since Nuremberg.

To this end, I invite all States of our Assembly to be involved in the quest for best ways to build a constructive dialogue by putting aside their cyclical political interests and giving priority to solutions safeguarding International Peace and Security.

Excellences,

Ladies and Gentlemen,

The second major challenge of my mandate will be to develop cooperation between the ICC and States.

The development of cooperation is, for the future of the Court, a major challenge for the upcoming years. **The ICC has neither army nor police.** Only States can combine their efforts to investigate, facilitate the arrest and transfer of suspects to the Court.

Cooperation constitutes a key pillar for the proper functioning of the ICC and the International Justice system established by the Rome Statute in 1998.

It is therefore primordial to develop three categories of cooperation:

- Bilateral Cooperation between the ICC and States Parties, in order to strengthen constructive dialogue with national Authorities, prioritize International mutual support in criminal matters in order to facilitate investigations and national prosecution, to sign privilege and immunity agreements, to delocalize witnesses, to protect victims and to host convicted detainees.

This entails to constantly ensure that victims and witnesses have a better protection in a geographical and cultural sphere guaranteeing their security and confidence. Their presence at a trial is essential for the manifestation of Truth.

Indeed, **a trial without witness is a justice without compass.** This is also applicable to the presence of victims or their relatives at the trial.

They must, without fear and apprehension, participate in criminal trials, with their legal representatives to deliver the atrocities and suffering that they have endured.

A trial without victims could only produce partial and biased justice. Justice that appeases both the victims and accused is one that offers all guarantees of a just and equitable trial.

- Cooperation with Non-States Parties to ensure the universality of ICC's action. States must help the ICC by executing the International arrest warrants it issues. It also must be the case for all acts of procedure able to help the Court in its mission.
- Multifaceted cooperation with all other Non-state actors will be strengthened, including with Intergovernmental organizations such as "l'Organisation Internationale de la Francophonie" or the Commonwealth, as well as with human rights organizations, humanitarian organizations, victims' associations, regional organizations, ...

This is the place to salute the remarkable contribution of International NGOs and Civil Society in the fight against impunity. Their investigation reports constitute an invaluable source of information and intelligence on the belligerents, the circumstances and the context of perpetration of masse crimes. They must enjoy protection in their States and in conflict zones.

This cooperation must also lean on the Media and journalists' associations to convey the message of prevention, of the necessity to respect fundamental human rights and liberties. This work of sensitization and popularization of the values of peace and justice requires the media which needs to be solicited when needed.

You would agree with me that this multifaceted cooperation should be developed in all domains. Indeed, I am convinced that the Court is a Giant with feet of clay without the cooperation of States.

The Third major challenge to which we intend to focus is strengthening complementarity.

I would like to recall that the Court can, and should only be a last resort against impunity. It has no vocation to replace the efficient work of national jurisdictions.

In any case, it does neither have the means nor the skills if this was its ambition. Each State must be able to judge, in all sovereignty, the crimes committed on its territory and under the jurisdiction of the ICC.

Should we recall that States, by ratifying the Statute of Rome, have neither abandoned nor restricted their sovereignty?

On the contrary, they clearly declared that they held the primary responsibility for the prosecution of the authors of the most serious crimes.

The Statute is based on the principle of complementarity and gives priority of action to national courts and limits the jurisdiction of the ICC to cases where there is clear unwillingness or inability to expedite action against suspected perpetrators of serious crimes.

It appears evident then that the success of the Court should not be assessed through the volume of cases pending before it, but rather by the exponential growth of matters within its jurisdiction in national courts.

To this end, I will employ myself with the members of the Bureau to ensure that States, which need it, benefit

from an effective technical assistance at the level of their national judicial systems.

This means strengthening the expertise and capacity of the actors of Justice (Judges, prosecutors, lawyers, registrars, security forces...) so that they have a good command of International norms for the trials they lead to obey to the guarantees of a fair and equitable trial.

The fourth challenge that requires our attention is to work towards the universality of the ICC.

I stand convinced that the Statute of the ICC must be applicable to the whole planet. It is difficult to accept that an overwhelming majority of the World population **cannot benefit** from the competence of this important international jurisdiction.

We must work towards the universal ratification of the Rome Statute.

I would like to seize this opportunity to call upon States which have not yet done so, to ratify the Statute of Rome, including some eminent States members of the UN Security Council.

I invite the States who have ratified the said Statute to integrate in their internal legislation the international crimes under its competence namely genocide, war crimes, crimes against humanity and crimes of aggression.

Thereby, fear will switch side. The authors of relevant crimes will know that they will be caught up by their past and prosecuted.

Moreover, victims will have hope that justice will be rendered to them. This hope is source of appeasement as it does not nourish the spirit of revenge which plunges societies in an infernal circle of deadly violence.

To meet these noble and redoubtable challenges, you will agree with me that we are all concerned individually and collectively. It is the case for all States, all Nations and all Peoples of the World.

It also is the case for all actors of the International scene which englobes both international organizations and Civil Society.

It the ICC wants to reach its own objectives, it must be able to foresee its future and organize itself in order to conduct with effectiveness, the difficult and complex missions that it is entrusted with while wisely using the funds allocated.

It must be able to lean on judges whose expertise and moral honesty are uncontestable. It must lean on the Bureau of the Prosecutor whose actions have to be extended to all theaters of conflict where mass crimes are committed. It must be able to count on a performant registrar, an efficient Secretariat with its attached services.

The ICC must have the means to realize its ambition.

It must be supported financially by the States and by all actors with the requisite resources. Support to International Criminal Justice contributes to peacebuilding and peace consolidation, a necessary environment for the hatching of fundamental rights and liberties.

I am strongly convinced that such justice could, by its powers of prevention and deterrence, contribute to the stabilization of our States, the strengthening of Rule of Law and the rooting of democratic values that guarantee the primacy of Law and the non-repetition of crimes which shock Universal conscience.

Human need of justice requires a universal response of Humanity. Indeed, Justice can be a powerful vector of peace endowed with the pedagogic virtue to extinguish the flame of violence and to lighten that of hope.

It could also become a possible promise of an equitable future for all human beings and of a better World for all the Peoples of the World.

Moreover, I would like to assure and reassure you that I am fully aware of the heavy responsibility that you have entrusted me with Today. I will be devoted to this exciting and challenging mission.

It is to this legitimate fight for Rights and Freedom that I invite you while informing you that I count on every single one of you, to set the first steps of this long and difficult journey.

I thank you for your kind attention.