



**STATEMENT BY THE KENYA HUMAN RIGHTS COMMISSION (KHRC) MADE
AT THE 12TH SESSION OF THE ASSEMBLY OF STATE PARTIES TO THE ROME
STATUTE DURING THE DEBATE ON INDICTMENTS OF SITTING HEADS OF
STATES AND PEACE & STABILITY AND RECONCILIATION**

Distinguished delegates,

Thank you Chair for this opportunity to address the Assembly of State Parties during these important discussions on the indictment of sitting heads of state and government and its consequences on peace and stability and reconciliation.

I speak on behalf of Kenya Human Rights Commission, a non-governmental organization and member of FIDH, that works very closely with victims of gross human rights violations, including those of the heinous crimes that were committed during the Post- Election Violence in Kenya in 2007-2008.

As you are aware the Kenyan President and Deputy President are currently subjects of the ICC. It is important to point out from the outset that the two accused persons, at the point of indictment, were not President and Deputy President of Kenya. Indeed both President Uhuru Kenyatta and Deputy President William Ruto have openly declared that the ICC cases were merely personal challenges that would in no way affect the discharge of their official mandates. Upon their election to the Presidency, they have depicted an image of a reconciling nation.

Ladies and gentlemen, there can be no peace without justice. Indeed meaningful justice results in lasting peace, having addressed underlying issues that affect communities in post conflict situations. Victims of the post-election violence in Kenya continue to support the ICC, as being

the only credible institution that can ultimately deliver justice for the human rights violations that they suffered in 2007-2008, and whose effects they continue to painfully bear. In a recent letter to the United Nations Security Council, Fergal Gaynor, the common legal representative for victims in the case against President Uhuru Kenyatta, demonstrated that victims are in support of the ICC and oppose any attempts at discontinuing the ICC cases. The International Criminal Court remains the only hope for accountability, justice and truth telling.

Ladies and gentlemen, the ICC was established for the purposes of prosecuting those who bear the greatest responsibility for crimes of international concern. If states were to offer immunity to sitting heads of states and governments, this would negate the very purpose that that Court was founded. In effect indicted heads of states would deliberately ensure that they never vacate the office of the president in order to avoid prosecution at the ICC. This would have a direct and negative impact on the progress made by many countries to hold regular, credible and democratic elections, upholding the rule of law and respect for human rights-in effect entrenching dictatorships in perpetuity. It is these realities, ladies and gentlemen that portend threats to peace and stability and reconciliation.

In conclusion, the March 2013 general elections in Kenya were seen to be largely peaceful arguably as a result of the ongoing cases at the ICC. In effect one may argue that this had a deterrent effect on violence in Kenya. As the State Parties engage in these discussions we emphasize on the need to interrogate the impact of the proposed amendments on victims and affected communities from post conflict societies.

I thank you.

November 21, 2013

THE HAGUE, THE NETHERLANDS