

17 June 1998

Statement by Honorable Mr. Siddha Raj Ojha, Minister for Law and Justice, His Majesty's Government of Nepal

UN Diplomatic Conference of Plenipotentiaries on the Establishment of ICC, Rome, Italy

Mr. President,
Distinguished Delegates,
Ladies and Gentlemen,



At the outset, allow me, Mr. President, to congratulate you on your unanimous election as President of this historic conference, and through you, Mr. President, to other members of the bureau as well as to the Chairmen and all members of the important committees under it. The delegation of Nepal is confident that under your wise and able Presidency this conference will score full success in making the dream of the international community to devise an effective international mechanism for not permitting any opportunity to the perpetrators of crimes of international concern to evade justice a living reality. Allow my delegation, Mr. President, also to pay tribute to all those who generated and nourished the idea of setting up an international criminal court and those who worked really hard to bring us to this stage including, of course, the International Law Commission, the ad-hoc and preparatory committees and the inter-governmental and non-governmental organizations.

At this juncture, I would also like to place on record the sincere appreciation and thanks of His Majesty's Government of Nepal to the Government of Italy for having hosted this Conference as well as for the excellent arrangements made for the conduct of the Conference and the generous hospitality extended to my delegation since our arrival in this historic and

Mr. President,

It is the feeling of my delegation that while we have gathered here to fulfill the long standing commitment made by the international community to bring to justice the perpetrators of crimes of international concern, the perpetrators or the potential perpetrators of such crimes around the world must have been dismayed. This only indicates the immense deterrent value the Court will have once it is in place. That we have gathered here to usher in a new era in which human rights of all peoples in all countries of the world will be universally respected and the perpetrators will not go unpunished has naturally encouraged all those who dream of a more harmonious and orderly world in place of what we have today. My delegation therefore sincerely believes that this august gathering should effectively address the outstanding and unresolved issues for the establishment of the proposed International Criminal Court.

Mr. President,

Nepal believes that the proposed court should be an impartial, independent, permanent and effective world body. The court should stand as a model of excellence and meet the highest standards of justice and fairness. It should be independent to the extent that no entities, within the framework of the United Nations or outside, should have the authority to control or unduly influence it in any manner. The principle of complementarity to national criminal justice systems should be at the heart of the statute of the court. The Court should be able to hold individuals personally responsible also for preparing, attempting or conspiring to commit gross crimes under international law. It should be endowed with the necessary power to prosecute individuals in war or peace time and regardless of whether the perpetrators are leaders or subordinates, civilians or members of the military, paramilitary or police forces.

We believe it would be in the interest of justice if the victims also could be made parties to the trial and be given the opportunity to obtain restitution, compensation and rehabilitation from the assets of the perpetrator. Moreover, if the assets of the offender have been derived from the commission of the crime, the court should be able to forfeit such assets and use them to compensate the victims irrespective of whether or not such unlawfully gained assets are owned or possessed by the criminal or somebody else in his or her kins or alliance.

The delegation of Nepal holds the view that since we are going to establish an International Criminal Court of a sui generis nature, it would be preferable for the international community to expect that all the countries of the world, even non-parties to the statute, act in accordance with the principles envisaged in the statute. Therefore, the conference should work towards incorporating into the statute the principles of justice of the widest acceptability so that even the non-parties to the statute could feel like accepting the principles suo moto. In this context, Mr. President, we think the deliberations at this conference under your leadership need to be directed towards meeting the challenge of producing a statute of the international criminal court which would attract the highest possible majority, if not consensus, of all states to ensure the universality of the statute and the early start of its functioning. Only this can lead to a better world where all mankind could live with dignity based on the foundations of justice and the perpetrators could not be allowed to evade justice.

Finally, Mr. President, I would like to assure that my delegation would work in full cooperation with you in accomplishing the noble mission of securing "peace through Justice" in the spirit of global neighborhood.

I thank you Mr. President.

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