



E-reporter Africa and International Justice July 2010

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Review Conference of the Rome Statute: Kampala 31 May to 11 June

Crime of Aggression

Kampala witnessed a historic moment when the Rome Statute was amended and an agreement was reached to include a definition of the Crime of Aggression to enable the Court exercise jurisdiction over this crime. Although the Crime of Aggression was regarded as a core crime in the Rome Statute, the Statute lacked a definition and jurisdictional conditions. In Kampala agreement was reached on a jurisdiction regime which yet has to be activated after 1 January 2017 by a two third majority of the States Parties. The amendment creates a complex jurisdiction distinct of the other three crimes (genocide, war crimes and crimes against humanity). This reflects the tensions between states that prevented this crime to be included in the Statute earlier. The Prosecutor can start an investigation if the case has been referred to the Court by the UN Security Council. However, four conditions should be met for the Prosecutor to start an investigation proprio motu, or based on a State referral. Furthermore, the states have the possibility to opt-out of the Court's jurisdiction by making a declaration of non-acceptance.

Stocktaking

Stocktaking on international criminal justice resulted in a resolution regarding victims and the affected communities and a resolution on complementarity. The latter reaffirmed the states primary responsibility to investigate and prosecute international crimes at the national level and encouraged states to cooperate with and assist each other. On the subject of cooperation with the Court, a Declaration was embraced which stressed the importance of execution of warrants of arrest and the States' obligation to cooperate with the Court.



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17 July: Official Day of International Justice

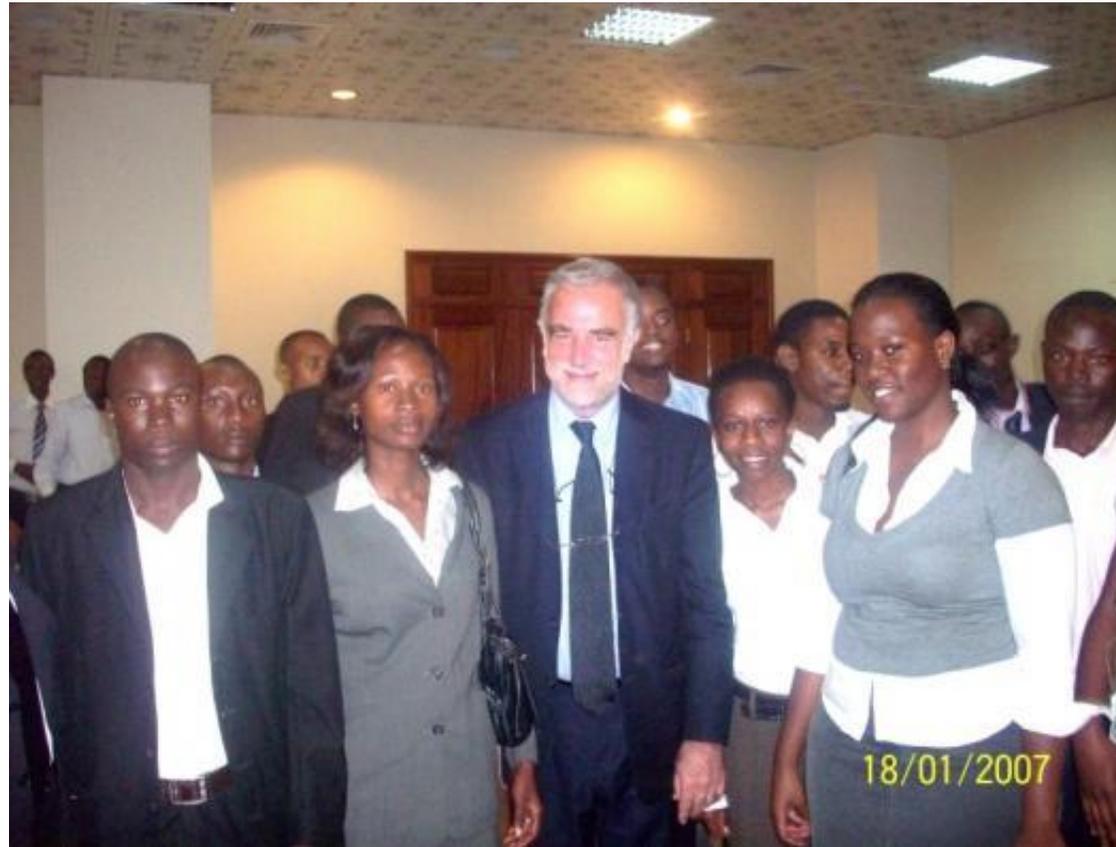
The first ICC Review Conference adopted the “Kampala Declaration”, which inter alia recognised 17 July, the day of adoption of the Rome Statute in 1998, as International Justice Day.

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AFLA and the ICC Review Conference

Africa Legal Aid convened three activities in Kampala to commemorate the first Review Conference of the International Criminal Court. On 28 May, AFLA held a Seminar on the above referenced theme attended by civil society, legal fraternities, officials of State parties, and high level ICC Officials including the President of the Court, the Prosecutor, and the President of the Assembly of State Parties (ASP) to the ICC.

The highlight of this Forum was a Panel Discussion on the theme: “Africa and International Justice: Participant or Target?” At a Networking Reception at the close of the seminar, a Special Edition of AFLA’s “flagship journal”, the Africa Legal Aid Quarterly on the theme “On the Shores of Lake Victoria: Africa and the Review Conference of the International Criminal Court” was launched by U.N. Assistant Secretary-General, H.E. Adama Dieng of the International Criminal Tribunal for Rwanda (ICTR). [Click here to view the ICTR Newsletter](#). On 29th May, AFLA dedicated a side event to students and the youth by showing **The Reckoning**, a documentary on the activities and challenges of the ICC. Hundreds of Students from five universities in Uganda attended this event and had the chance to interact with the ICC Prosecutor and other experts.



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Second Arrest Warrant for Al Bashir

On July 12, the ICC Pre-Trial Chamber I issued a second arrest warrant with three counts of genocide against the Sudanese President Omar Al Bashir. This arrest warrant does not revoke or replace the earlier arrest warrant of 4 March 2009 with charges of crimes against humanity and war crimes. In March 2009 Pre-Trial Chamber 1, did not find reasonable grounds to include genocide in the charges against Al Bashir. The Prosecutor's appeal led to a renewed decision applying a different standard of proof as indicated by the Appeals Chamber. In the second arrest warrant the Pre-Trial Chamber concluded that there are reasonable grounds

to believe that the Sudanese President had intention of genocide against three ethnic groups in the Sudan: the Fur, Masalit and Zaghawa.

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African Union Divided on Arrest of Al Bashir

At the 17th Ordinary Session of the AU Executive Council held in Kampala on 22 and 23 July 2010, the African Union was divided by two camps on the matter of cooperation with the ICC and arrest of the Sudanese president Al Bashir. At the opening ceremony, AU President Mutharika of Malawi made criticising statements on the ICC and its Prosecutor Luis Moreno-Ocampo, and alleged that he was targeting Africa. The AU President called upon African leaders not to cooperate with the ICC and to find another solution for the Sudanese conflict. Some States proposed a non-cooperation clause in the draft resolution concerning the ICC while others opposed. In the end the clause was removed. However, the final resolution restates the request to the United Nations Security Council to defer the case against Al Bashir.

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AFLA Conference report on “The Al Bashir Arrest Warrant” available now

Prior to the ICC Review Conference on 26 April, 2010, AFLA convened a South North Dialogue in The Hague, seat of the ICC on the theme: “The Al Bashir Arrest Warrant: The World vs. Africa or the African Union vs. The People of Africa.”

[Click here to read the Conference report.](#)

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African Union deferred request from Civil Society to support the establishment of an ICC Liaison Office in Addis Ababa, Ethiopia

In order to strengthen the coordination, dialogue, regular consultation and interaction between the AU and the ICC, civil societies from Africa and elsewhere had called upon African States Parties to the ICC at the AU Summit to support the establishment of an ICC liaison office at the AU Headquarters in Addis. The AU however postponed a decision on this matter.

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Update on Trial of Thomas Lubanga Dyilo

Trial Chamber I of the ICC ordered the release of the Congolese militia leader Thomas Lubanga on 15 July 2010. Earlier, on 8 July the Court suspended his trial because of the Prosecutor's failure to implement two Court orders. However, Lubanga will not be released as the Prosecutor filed an appeal against his release on 16 July. Accordingly, the Appeals Chambers decided to suspend implementation of the Trial Chamber's decision with the consequent that Lubanga will stay under custody of the ICC until the Appeal Chamber makes a decision.

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Supermodel Naomi Campbell to Appear before the Special Court of Sierra Leone

On 5th of August, the British supermodel Naomi Campbell will appear before the

Special Court of Sierra Leone to testify in the trial of Charles Taylor. The Special Court is trying Charles Taylor in the ICC building in the Hague. She will testify whether he gave her a diamond in South Africa in 1997.

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Out of the International Legal Capital

Participate in this QUIZ on why the Dutch National Football team did not win the World Cup?

Choose one of the following answers:

1. AFLA did not send cheer leaders to support one of its host country's national team.
2. Spain was simply a better team.
3. Queen Beatrix' absence broke down moral.
4. Having set the record of winning all six games before the finals, the Dutch National team might have been complacent.

[Click here to send us your answer!](#)

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Africa Legal Aid Update

- Effective 2010, AFLA's major Programs: The Gender Justice Campaign and The International Justice Agenda will be steered by a Committee of experts in Human Rights, Gender, International Justice, and Development.
- AFLA's "flagship" Journal, the Africa Legal Aid Quarterly, published since 1996, will effective 2010 meet official Peer Review Requirements. The Editor, Evelyn A. Ankumah, is now supported by a Peer Review Panel

of other legal and human rights experts. As well, the Quarterly has reintroduced a Gender Column “Gender Zone with Dr. Pinkie Mekgwe”.

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Stay tuned at www.africalegalaid.com for a Profile of members of the Steering Committee and Peer Review Panel, and AFLA’s forthcoming activities on “Voices of Africa, Voices of Women: Inclusive International Justice”!

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