

**Intensifying Africa's Cooperation with the  
International Criminal Court (ICC)**

*Evelyn A. Ankumah*  
Executive Director, Africa Legal Aid

AFLA Side Event 'Cooperation, Defence Perspectives, and Clarifying the Immunity Debate'

Assembly of States Parties to the Rome Statute

12th December 2014, 1.00 - 2.30p.m.

Conference Room 4, United Nations Headquarters

Excellencies, distinguished participants, dear friends and colleagues, all formalities hereby fulfilled.

There is no denying: the ICC is of great importance for Africa. The reverse is also true: Africa is of great significance to the ICC.

Numerous international crimes have been and will probably continue to be committed on African soil. Many, many Africans have suffered, still suffer and will probably continue to feel the physical and mental pain from the evils they could not and cannot escape from. No serious mind can question the need to hold perpetrators of crimes that shock the conscience of humankind accountable, preferably in criminal courts. This could be done in local, national or African regional courts, and certainly these are the preferred venues: the closer criminal justice can be done to home, the better it is. Given the large scale on which international crimes are committed on our beloved continent, and its limited capacity to force all perpetrators to face criminal justice, external support is needed, including the help that the ICC can and is willing to offer.

Now there are critics who seem opposed to such external assistance. They tend to look at the ICC as the ICCA: the International Criminal Court for Africa. The Court is unfairly targeting Africa not for the general public good of justice or for the sake of Africans, they contend. There are international crimes committed elsewhere, in Afghanistan for example, where the ICC has direct jurisdiction, and where the victims also require justice. As a young institution, not yet a teenager, the ICC would pick the politically easy cases from politically weak Africa to persuade sceptical contributing states of its existence, its added value, and to prove that it is worth all the investments made in it, so some perceptions go.

While as a representative of an NGO, I see it as my task to critically follow the work of the ICC, I am not suspicious or cynical about the Court and its mandate. In fact, I tend to understand the notion of the International Criminal Court for Africa positively. It simply is a criminal court that is working FOR Africa and its people. The crimes falling within the Court's jurisdiction are heinous crimes that are an affront to the entire world community, to humanity. In fact, by ratifying the Rome Statute, all African state parties to the Statute have asked the ICC to assume responsibility for ensuring criminal justice in and for Africa.

Ladies and gentlemen, when working on international justice the ICC must have an eye on specific African values, circumstances and interests. Ultimately, its legitimacy depends on this. There are many aspects to this, some of which the other speakers will touch upon in a moment. I wish to focus on one issue that is of great importance, especially for Africa. I am NOT referring here to the quest for impunity and immunity for Heads of State for large-scale atrocities, which some seem to view as a specific African need. Heads of State are often said to embody the State and prosecuting them would imply an attack on a State's sovereignty. That may be true, but international criminal law is not there to

protect States or their leaders. It is there to provide justice to those who suffer from injustice.

The African interest I am referring to is the crime of aggression. As we know, the 1998 Rome Statute already mentioned this crime, but its definition and the conditions for the exercise of jurisdiction over it (including the question of the role of the UN Security Council) were deferred. Why one may ask, was this the case? Is it because aggression crimes are leadership crimes? In 2010 at the First ICC Review Conference held in Kampala, consensus was reached on its definition, but, once again, as part of a political compromise, the Court can only exercise jurisdiction when the ASP so decides and when 30 state parties ratify the Kampala Amendments. Only 1 of the 20 states that have ratified the Kampala Amendments is an African State.

Yet, activating the Court's jurisdiction over this crime is particularly relevant for weaker and vulnerable territories, where innocent and defenceless civilians have been victims of decisions and actions of foreign leaders, who, contrary to their obligations under the UN Charter, used their *de facto* power to use violence and armed forces against the sovereignty, territorial integrity and political independence of weaker States. Indeed ratification and enforcement of the Kampala Amendments will contribute to peace and security in Africa.

José Ayala Lasso, Former United Nations High Commissioner for Human Rights, once observed: "A person stands a better chance of being tried and judged for killing one human being than for killing 100,000." Clearly that should be altered and effective and efficient exercise of jurisdiction over the crime of aggression can be and should be a key element of the required change.

The Global Institute for the Prevention of Aggression working with partners including the Principality of Liechtenstein has started a campaign to promote

ratification of the Kampala Amendments on the Crime of Aggression and I wholeheartedly support the initiative. Success of the campaign will be crucial for peace and justice in Africa. It will make international criminal justice more inclusive, for who commits aggression crimes, and against whom are these crimes committed? African States should welcome this development and ratify the Kampala Amendments, to ensure an international justice regime that is truly universal, legitimate and effective.

I thank you for your consideration.