

For Justice Today

ICC STOCKTAKING ISSUES

- ⇒ *Impact of the Rome statute system on victims and affected communities*
- ⇒ *Peace and justice*
- ⇒ *Complementarity*
- ⇒ *Cooperation*
- ⇒ *Strengthening the enforcement of sentences*
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THE ICC REVIEW CONFERENCE HELD IN UGANDA

Uganda hosted the first ever Review Conference of the Rome statute which took place from 31st May to 11th June 2010 at Speke Resort Munyonyo. The review conference was convened in accordance with article 123 of the Rome statute. The conference was attended by delegations from the 111 state parties of the Rome statute, observer states and non state parties. Members of non governmental organization and inter-governmental organizations were also invited. APILU was one of the non governmental organizations that



Judge Sang-Hyun Song, President of the ICC,

participated. The conference was opened by the President of the Assembly of State Parties (ASP) and the president of the conference, Ambassador Christian Wenaweser on 31st May 2010. Statements were delivered by the Presi-

dent of Uganda, H.E Yoweri Museveni, United Nations Secretary General Mr. Ban Ki Moon, Judge Sang-Hyun Song, President of the ICC, by Mr. Luis Moreno Ocampo, Prosecutor of the court and by former Secretary General Kofi Annan.

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The Peoples space an open space set up by Human Rights Network Uganda (HURINET-U) and the Uganda Coalition for the ICC (UCICC) was launched by UN Secretary General Ban Ki moon at 2.30pm on 31st May. The Peoples' Space was an exhibition space for the civil society dealing with ICC related issues like human rights and international

THE PEOPLE'S SPACE

criminal justice and APLIU is one of the organizations that had an exhibition stall at the space. Other activities that took place there include traditional dances, documentaries, and discussions, quizzes all showing and discussing matters related to the ICC. The Peoples' Space ran from 31st May to 11th June 2010



*Ban Ki Moon
UN Secretary General*

THE INTERNATIONAL SYMPOSIUM ON STOCKTAKING

APILU was part of the international symposium held from 27 to 28th May 2010 at Hotel Africana and organized by the Human Rights Network of Uganda (HURINET), Uganda Coalition on the International Criminal Court (UCICC) and the International Commission of Jurists (ICJ-Africa Program). The symposium brought together individuals in civil society from all parts of the world with expertise in the various stocktaking issues addressed by the Assembly of State Parties (ASP).

The various stocktaking issues discussed included the impact of the ICC on victims and affected communities, the impact of the court on peace processes, the court's principles of cooperation and the principle of complementarity. The purpose of the symposium was to develop a communiqué that outlined a series of recommendations by the civil society to the ASP. The communiqué was later presented to the ASP at the ICC review conference.

FWODE LEADERSHIP TRAINING

Forum for Women in Democracy organized leadership training under the theme **'Alternative and Transformative Leadership'** for graduate women between 22 and 25 years from 11th April to 1st May 2010 which was attended by Edna Akullq from APILU. The training was in Kasangati and was part of capacity building program at APILU. The training covered several areas like

social and business entrepreneurship, women leaders in Africa, fashion for women leaders, emotional intelligence, and gender budgeting and feminism in Africa among others. The purpose of the training was to equip young women with leadership skills and to encourage them to apply those skills to communities around them and also to encourage women to participate in elective poli-

tics and other leadership positions.



Ms. Edna Akullq -
**Focal Person Research
and Training**

AFLA Workshop; Is Africa a participant or a target of International Criminal

Africa Legal Aid (AFLA) a pan-African organization based in Accra, Pretoria and The Hague that has since its inception worked towards the involvement of African scholars and experts in international criminal justice. Thus in the run-up to the ICC Review conference, AFLA organized a one-day seminar on the interaction of Africa and the international criminal court. The seminar explored topical issues under the wider

theme of whether Africa has become a target of the court or a participant in international criminal justice.

Alongside the National coordinator, **Brian Bwesigye**, *Intern and Focal Person, Democracy and Governance* represented APILU at the seminar where many international organizations and known scholars in International Criminal Law were present. The seminar explored Africa's participa-

tion in International criminal justice and its contribution to the international criminal system as well as the impact of international criminal justice in Africa. Other topics explored include an African perspective to the proposed Convention on the prevention and punishment of crimes against humanity and the War Crimes Division of Uganda and the principle of complementarity among others.



Flags for ICC participating Countries

The Big Public Conversation:

.This was a discussion on an important governance issue in Uganda as part of the ongoing public dialogues to inform a Citizen Manifesto that UGMP, a Civil Society Governance Group is developing. It took place at Imperial Royale Hotel, at 2:00 pm on 22nd April, 2010. The Public Conversation was under the theme: **“Federalism, Federalism, Regional Tier, Decentralization or Monarchism: Is Uganda at a Governance**

System Crossroads?”

It featured a keynote address from Mr. Patrick Mutabwire, a representative from the Ministry of Local Government.

The other panelists in the discussions were: Hon Norbert Mao, the LC V Chairperson of Gulu District and President of the Democratic Party, Hon Bettie Kanya, MP for Rubaga North and President of Uganda Federal Alliance, and Dr. Moses Isooba, the Regional Development

Advisor, Governance and Democracy MS-TCDC, Arusha -Tanzania.

UGMP also took the opportunity to launch its 2009 Governance Monitoring Report, which focuses on tracking the progress Uganda has made as a country on the commitments in the African Peer Review Mechanism Programme of Action (APRM POA), using selected commitments.

By Hilda Kamugisha

THE IMPACT OF THE ICC ON VICTIMS AND AFFECTED



The wall of freedom at the People's space in Munyonyo during the ICC Review Conference

In preparation for the ICC Review Conference, World Vision in conjunction with UCICC and HURINET-U organized a public dialogue for civil society and politicians on the impact of the ICC on victims and affected communities under the theme 'Hear my Voice for Justice and Accountability- The Plight of Children and Affected Communities in northern Uganda.' The dialogue was held on 6th May 2010 and began at 9.30am with introductions by those attending and the invited delegates. APILU was represented by Ms. Philippa Bogere.

Mr. Mohammed Ndifuna of HURINET gave brief introductory remarks on the purpose of the ICC Review Conference. He talked about the four areas of stocktaking and these include the impact of the Rome statute system, state cooperation with the ICC and aspects of Complementarity. On the issue of Complementarity, he mentioned that the ICC is a court of last resort and therefore states should have systems in place to deal with issues of war crimes. He talked about positive Complementarity where states themselves move to act

against the perpetrators and negative Complementarity where the court intervenes. The fourth area of stocktaking that he mentioned is sequencing peace and justice. He mentioned the fact that children are among those most affected in conflicts due to various factors like abductions, sexual abuse and losing parents thus the need for the dialogue. He added that when talking about affected communities, it should be remembered that children are part of them.

APILU Experience-sharing with Suffolk University students

APILU held a meeting with visitors from Suffolk University on 13th May 2010 at the office premises. The meeting was a forum for sharing experiences by APILU staff and the students from Suffolk University and their professor, Judi Dushku.

There was also a discussion led by APILU National Coordinator about various issues such as trafficking in persons, corruption, land rights and conflicts which the students were interested in learning about.



Professor Judith Dushku of Suffolk University-USA

Africa Governance Monitoring and advocacy Project (Afrimap) consultative meeting

The Africa Governance and monitoring Project (AFRIMAP) together with the Open Society Initiative for Eastern Africa (OSIEA) organized a consultative meeting under the theme “Governance monitoring: towards an early warning mechanism to prevent election violence in 2011”. The meeting was aimed at identifying several areas of Research in a bid to improve and monitor the governance in Uganda and

Africa as a whole. The research areas have already been done in many parts of Africa but in order to fit the Uganda context and situation appropriately, this meeting was in order. The key governance issues that were addressed during this meeting were independence of the Justice systems; oil governance in Uganda; and the elections. This meeting

brought together academics, activists and other stakeholders from Uganda and all over. The participants from shared her key preliminary findings from the Research she was carrying on the election process, the challenges and recommendations

By Edna

Discussing various stocktaking issues in regard to the ICC

APILU as part of UCICC attended a roundtable discussion for civil society organizations organized by Human Rights Network (HURINET), Uganda Coalition on the ICC (UCICC) and No Peace Without Justice (NPWJ) on 5th May 2010 to discuss various stocktaking issues in regard to the ICC. It was attended by visiting dele-

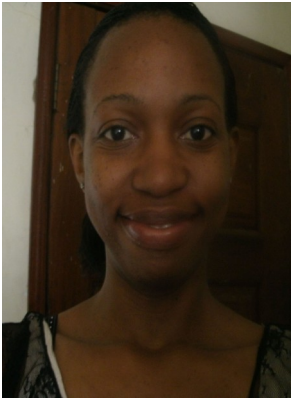
gates and ASP representatives of Burkina Faso, Barbados, Comoros, Madagascar, Italy and Uganda. The discussion was also attended by various members of the civil society.

Various topics including the ‘Introduction to the history, culture and politics of Uganda’, ‘The Impact of the Rome

Statute system on victims and affected communities’, ‘Impact of the Rome Statute System on Peace Processes and Peace Building’ and ‘State Cooperation and Complementarity’ were discussed.

By Philippa

RLP Debate; ICC Complementarity at Crossroads



Bogere Philippa - **Focal Person ICC and Public Policy**

The Refugee Law Project held a symposium at Grand Imperial Hotel on Wednesday 19th May 2010 at 2pm under the theme ‘**ICC Complementarity at Crossroads?**’ The symposium discussed various issues such as the Special Division of the High Court, the recent enactment of the ICC bill, progress made towards a broader transitional justice system by the JLOS, potential legal impediments and the Amnesty Act among others. There were different guest speakers including Ms. Rachel Odoi Musoke from the Justice, Law and Order Sector (JLOS). She gave a brief background of the Justice, Law and Order sector which

is divided into committees and working groups. She said the work of the JLOS in relation to transitional justice is to look at the Juba agreement, and find ways of implementing government obligations and this is especially traditional and reconciliation and integrated committees. She added that they have to look at identifying types of crimes to be covered by traditional justice mechanisms, truth telling what will be used and how it will be used. She also looked issues of the formal criminal justice mechanism and whether the legal framework in place is adequate for prosecuting international war crimes. She mentioned various legislations already in place like the Penal Code Act, Geneva Conventions Act, Evidence Act, and Criminal Procedure Act and added that that the Protocols to the Geneva Conventions have not yet domesticated but have been ratified. She also added that the ICC bill had been passed and is awaiting assent by the president and it provides for various of-

fences but children below 18 are not liable to prosecution according to the Rome statute.

She mentioned the structures that have been put in place for prosecuting crimes like the War Crimes Division which has 4 judges and a registrar. The registry of the court also has outreach programmes and structures for victim protection and witnesses. She said that the War Crimes Division also works with a specialized unit of 6 prosecutors, specially trained police officers and the government analytical unit. She concluded that with these structures in place, Uganda is prepared to prosecute war crimes. She however mentioned that there were challenges such as the fact that the ICC act does not cover crimes before 2002 and so cannot cover all the crimes. She added that there is also work to be done in domesticating the additional protocols to the Geneva Conventions.

Proposals For Amendments of the Rome Statute

Article 124

Review of article 124 of the Rome statute. The conference adopted a resolution by which it decided to retain article 124 in its current form and to further review its provision during the fourteenth session of the Assembly of the State Parties to the Rome statute.

The options were either to delete, retain or redraft article 124. Another proposal was the introduction of a sunset clause in article 12 with a timeframe that it would expire after some-time. It was decided to retain article 124 in its current form and to further review its provisions during the fourteenth session of the assembly of state parties to the Rome statute.

Article 8

Belgium presented three proposals for the amendments to the article 8 of the Rome statute regarding the criminalizing of certain weapons as war crimes. The proposals extend the crimi-

nalization of the use of poison, poisoned weapons, asphyxiating, poisonous or other gases and all analogous liquids, materials or devices as well as the use of bullets that expand or flatten in the body to armed conflicts not of an international character. The use of the weapons listed is already incriminated by article 8 but in international armed conflict. The conference amended the elements of crimes by the inclusion of the elements of the war crimes included in article 8 para 2 (e) of the Rome statute.

Article 5

The crime of aggression is listed under article 5 of the Rome statute along with war crimes, crimes against humanity and genocide but the ICC remain unable to exercise jurisdiction over the crime of aggression because the statute did not define the crime or set out jurisdictional conditions.

The ICC adopted an amendment to the Rome statute including a definition for the crime of aggression and creating jurisdictional conditions for prosecution. The amendment was adopted after states reached a compromise on the definition and implementation of the

crime. Under the new amendment, the UN Security council will serve as primary body in determining whether the crime of aggression has occurred. If the Security Council fails to make a determination, the ICC prosecutor is authorized to commence an investigation on his own initiative or upon a request from an ICC state party. The Security Council can halt an investigation of a crime of aggression at any time through a resolution but his resolution must be reinstated every 12 months. Non state parties who do not fall under ICC jurisdiction when the prosecutor initiates the investigation and state parties can exempt themselves from jurisdiction over the crime of aggression by submitting a declaration of non acceptance to the court. These exemptions however do not apply when the Security Council has determined that a crime of aggression has occurred.

***By Philippa Bogere
&
Edna Akullo***