



# International R e f u g e e R i g h t s I n i t i a t i v e



H.E. Jean Ping, Chairperson of the African Union Commission,  
Chairperson of the Ministerial Meeting of African States Parties to the Rome Statute of the International Criminal Court  
meeting on 8 - 9 June 2009 in Addis Ababa, Ethiopia  
Addis Abbaba,  
Ethiopia

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7<sup>th</sup> June 2009

Your Excellencies,

We have the honour to refer to the upcoming meeting of African states parties to the Rome Statute of the International Criminal Court (Rome Statute) "to exchange views on the work of the ICC [International Criminal Court] in relation to Africa". On 6th June 2009, the undersigned African experts on international criminal justice met in Nairobi to contribute to this undertaking.

We welcome this initiative by the African Union (AU) Assembly to encourage State Parties to the ICC to conduct a stocktaking of the impact of the ICC in Africa. Several African States have experienced crimes of mass atrocity. African States, therefore, have a legitimate interest in ensuring accountability for such crimes.

Naturally, African States have played a central role in the establishment of the ICC as the principal institution for this purpose. The first state to ratify the ICC Statute was African. 30 African States have so far ratified the ICC Statute. Three African States have taken the lead in referring situations to the Court.

The Constitutive Act of the AU affirms the commitment to combating impunity. Among many African instruments implementing this, the Protocol on the Prevention and Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity adopted in 2006 as part of the Pact on Security, Stability and Development in the Great Lakes Region contains far reaching commitments for addressing international crimes.

The January 2009 AU Summit requested the AU Commission in consultation with the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights, to "examine the implications of the Court being empowered to try international crimes such as genocide, crimes against humanity and war crimes."

We acknowledge that the ICC is a young institution which confronts enormous challenges generally, especially in relation to its work in Africa. These include:

- case selection;
- effective outreach to, and protection of, affected communities and victims;
- the interaction of legal, political, and security considerations inherent in the work of the ICC;
- operational, personnel, skill challenges facing the Court.

African State parties have a responsibility and an entitlement to engage the ICC through its decision making and governance organs in order to ensure that the core principles and objectives as articulated in the Rome Statute are effectively fulfilled by the Court and that the independence and credibility of the Prosecutor and the Court are affirmed.

In addition to participating in debate and decision-making within the relevant Bureaux and organs of the ICC Assembly of State Parties, we note that there will be an additional opportunity to contribute to a thorough assessment of the work conducted by the Court since its inception on the occasion of the ICC Review Conference which will take place in Kampala, Uganda next year. In the meantime, in order to facilitate a more constructive and wide-ranging dialogue, we urge African State parties to the ICC to enjoin the African Union and the ICC to expedite the establishment of an African Union-ICC Liaison office in Addis Ababa as recommended by the Assembly of State Parties of the ICC and the conclusion of the AU-ICC Cooperation Agreement which we understand is at an advanced stage of negotiation.

In parallel with the complementary jurisdiction of the ICC, we recognise the existence of mechanisms, arrangements and standards to ensure redress for serious violations of human rights at the domestic and regional level in Africa, including, for example, the African Court and Commission on Human and Peoples' Rights and the international criminal justice commitments entered into by States in the Great Lakes region. These institutions and frameworks must be strengthened, and the decisions and recommendations of regional judicial and deliberative organs fully respected and enforced, in order to ensure State compliance, effectiveness and a complementary capacity to deliver justice.

Yours sincerely

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